United Nations A/C.3/63/SR.39

General Assembly
Sixty-third session

Official Records

Distr.: General
20 January 2009

Original: English

Third Committee

Summary record of the 39th meeting
Held at Headquarters, New York, on Tuesday, 11 November 2008, at 10 a.m.

Chairman:	Mr. Majoor	(Netherlands)
later:	Mr. Peralta (Vice-Chairman)	(Paraguay)
later:	Mr. Majoor (Chairman)	(Netherlands)

Contents

Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*)

Agenda item 58: Report of the Human Rights Council (*continued*)

Agenda item 62: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*)

Agenda item 63: Right of peoples to self-determination (*continued*)

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Convention on the Rights of Persons with Disabilities (*continued*)

Agenda item 61: Indigenous issues (*continued*)

Agenda item 97: Crime prevention and criminal justice (*continued*)

Agenda item 98: International drug control (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

08-59682 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*) (A/C.3/63/L.56)

Draft resolution A/C.3/63/L.56: Office of the United Nations High Commissioner for Refugees

1. **Mr. Michelsen** (Norway), speaking on behalf of the Nordic countries and the other sponsors, said that the draft resolution was a consensus text. It reflected the text of the draft resolution adopted the previous year and underscored the responsibility of States for ensuring the international protection of refugees. He wished to make an oral revision to the text: in paragraph 26, the words "the impact of those flows of persons" should be replaced by "its serious impact". He hoped the draft resolution would be adopted by consensus.

2. **Mr. Khane** (Secretary of the Committee) announced that the following delegations wished to join the sponsors: Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Belarus, Benin, Brazil, Bulgaria, Burundi, Chile, China, Colombia, Costa Rica, Cyprus, El Salvador, Ghana, Guinea, Guinea-Bissau, Honduras, Hungary, Iraq, Kenya, Lesotho, Malawi, Malta, Mauritania, Micronesia (Federated States of), Montenegro, Morocco, the Niger, Nigeria, Paraguay, Peru, Poland, the Republic of Korea, the Republic of Moldova, the Russian Federation, Senegal, Serbia, Sri Lanka, the Sudan, Tajikistan, the former Yugoslav Republic of Macedonia, Togo, Turkey, the United Republic of Tanzania and Zambia.

3. **The Chairman** said that the draft resolution had no programme-budget implications.

4. **Mr. Khane** (Secretary of the Committee) said that the following States had joined as sponsors: Afghanistan, Azerbaijan, Bangladesh, Botswana, Cape Verde, Greece, Mauritania, Thailand and Uruguay.

5. *Draft resolution A/C.3/63/L.56, as orally revised, was adopted.*

6. **Mr. Butt** (Pakistan) said that his delegation wished to explain its position on paragraph 16 of the draft resolution, which referred to local integration as one solution to refugee problems. That solution was neither acceptable nor feasible in the case of Afghan refugees in Pakistan. The large number of those refugees and the protracted period of time involved had placed a heavy strain on Pakistan's resources. The refugees were beyond the absorption capacity of a developing country, particularly in view of the current food crisis; the best solution was safe voluntary return. The international community should also take its share of the burden, for instance through third-country resettlement. In so doing, it could help realize a new stability in the region.

Agenda item 58: Report of the Human Rights Council (*continued*) (A/C.3/63/L.47 and L.57)

Draft resolution A/C.3/63/L.47: Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

7. **Mr. Salgueiro** (Portugal), introducing the draft resolution on behalf of the sponsors, said that the Bolivarian Republic of Venezuela had been omitted from the list of original sponsors and announced that Azerbaijan had become a sponsor. The draft resolution constituted a landmark in the promotion and protection of human rights because it created a new international individual-complaint mechanism. In keeping with the view that all human rights were universal and indivisible, the proposed Optional Protocol would give economic, social and cultural rights, the rights that most directly affected individuals' daily life, the same status as that accorded to civil and political rights. The text was a consensus text which, he hoped, would be adopted by consensus.

8. **Mr. Khane** (Secretary of the Committee) announced that Honduras, Mongolia and Nicaragua had become sponsors.

Draft resolution A/C.3/63/L.57: Report of the Human Rights Council

9. **Mr. Amorós Núñez** (Cuba), speaking as a sponsor on behalf of the States Members of the United Nations that were members of the Movement of Non-Aligned Countries and of the Group of African States, said that the draft resolution, in recognition of the work of the Human Rights Council, for example the drafting of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, took note of the report of the Council (A/63/53 and Add.1) and endorsed the recommendations contained therein. He was confident that the draft resolution would be adopted by consensus.

10. **Mr. Khane** (Secretary of the Committee) announced that Costa Rica wished to join the sponsors.

Agenda item 62: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*) (A/C.3/63/L.49)

Draft resolution A/C.3/63/L.49: Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

11. **Mr. Lukiyantsev** (Russian Federation), speaking on behalf of the sponsors, said that Belarus, Ethiopia, Kazakhstan, South Africa and Turkmenistan had become sponsors of the draft resolution, the theme of which was particularly relevant in the light of the forthcoming Durban Review Conference. He expressed profound concern at the growth of skinhead and neo-Nazi groups, attempts to glorify the Nazi movement or portray those who collaborated as members of national liberation movements, and the increase in the number of violent incidents attributable to those phenomena, which must be combated at the national and international levels.

12. He wished to make two revisions to the text: near the end of paragraph 2, the words "or collaborated" should be replaced with "and collaborated"; and in paragraph 12, the words "within existing resources" should be inserted following the word "prepare".

13. As the seventieth anniversary of the beginning of the Second World War approached and given the victory of the anti-Hitler coalition which had paved the way for the founding of the United Nations, it would be especially fitting for Member States to adopt the draft resolution by consensus.

14. **Mr. Khane** (Secretary of the Committee) announced that Cape Verde, Côte d'Ivoire, Nicaragua and Nigeria wished to join the sponsors.

Agenda item 63: Right of peoples to self-determination (*continued*) (A/C.3/63/L.48 and L.52)

Draft resolution A/C.3/63/L. 48: Universal realization of the right of peoples to self-determination

15. **Mr. Tarar** (Pakistan), speaking on behalf of the sponsors, said that the right to self-determination was the basic human right of nations and the very foundation for the enjoyment of all other human rights. It was enshrined in the International Covenants on Human Rights and had been reaffirmed at numerous international conferences. The exercise of that right had brought freedom to millions around the globe and offered hope to those peoples still under colonial, foreign or alien occupation. He said that Cameroon, the Congo, Mali, Somalia and Thailand had become sponsors and urged the Committee to once again adopt the draft resolution by consensus.

16. **Mr. Khane** (Secretary of the Committee) announced that the Libyan Arab Jamahiriya and Namibia had joined the sponsors.

Draft resolution A/C.3/63/L.52: The right of the Palestinian people to self-determination

17. **Mr. Khane** (Secretary of the Committee) said that the name of Palestine had been omitted from the list of sponsors.

18. **Mr. Attiya** (Egypt), speaking on a point of order, requested that a corrigendum to the draft resolution should be issued with the name of Palestine added to the list of sponsors.

19. **The Chairman** said that the Secretariat had taken due note of that request.

20. **Mr. Attiya** (Egypt), speaking on behalf of the sponsors, introduced the draft resolution, which recalled the long wait of the Palestinian people for their own State. Their right to an independent State had been affirmed on numerous occasions by the United Nations as well as by the International Court of Justice in the context of its advisory opinion on the Israeli wall in the West Bank. He said that Ecuador, Liechtenstein, Lithuania, Montenegro, San Marino, Slovenia and Togo had become sponsors and urged the Committee to adopt the draft resolution by consensus, thereby sending a message of solidarity to the Palestinian people as they sought to assert their inalienable right to a sovereign and viable State with East Jerusalem as its capital, living in peace and security with Israel.

21. **Mr. Khane** (Secretary of the Committee) announced that the following delegations wished to join the sponsors: Bulgaria, Cape Verde, Costa Rica, Croatia, Guinea-Bissau, Haiti, the Republic of Moldova, Rwanda, Tajikistan, the former Yugoslav Republic of Macedonia and Timor-Leste.

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/63/L.19/Rev.1, L.21, L.22, L.27, L.30-L.32, L.34, L.38 and L.39)

Draft resolution A/C.3/63/L.19/Rev.1: Moratorium on the use of the death penalty

22. **Mr. Jesus** (Angola) introduced draft resolution A/C.3/63/L.19/Rev.1 on behalf of the sponsors, which had been joined by Algeria, the Congo and Haiti, and said that a moratorium on the use of the death penalty would give Governments time to take measures aimed at abolishing the death penalty. His delegation therefore welcomed the holding of national debates on the death penalty in a number of countries. However, it was clear that such processes took time, because it was necessary to amend national legislation. Given the importance of General Assembly resolution 62/149, the draft resolution requested the Secretary-General to provide a report on its implementation at the sixty-fifth session of the General Assembly.

23. **Mr. Khane** (Secretary of the Committee) announced that the Dominican Republic had joined the sponsors.

Draft resolution A/C.3/63/L.21: Regional arrangements for the promotion and protection of human rights

24. **The Chairman** said that the draft resolution had no programme-budget implications.

25. **Mr. Nihon** (Belgium), introducing the draft resolution on behalf of the sponsors, made several oral revisions to the text. Paragraph 6 (e) should now read, "The recent decision by the Association of Southeast Asian Nations (ASEAN) to develop a mechanism for the promotion and protection of human rights;". A new subparagraph 6 (g) should be inserted, to read, "Ongoing initiatives to further develop arrangements for the promotion and protection of human rights by the States members of the Common Market of the South (MERCOSUR);". The former subparagraph 6 (g) should become 6 (h) and the former subparagraph 6 (h) should become 6 (i). In the new subparagraph 6 (i), after the words "Council of Europe", the words "and its various human rights bodies and mechanisms" should be inserted.

26. The following countries had joined the sponsors since the draft resolution had been introduced: Albania, Andorra, Australia, Canada, Chile, the Czech Republic, El Salvador, Japan, Malta and Turkey.

27. The draft resolution welcomed the exchaages between the Office of the United Nations High Commissioner for Human Rights and intergovernmental and regional bodies, as well as between the human rights treaty bodies and the relevant regional organizations. It also mentioned recent developments within ASEAN and in the MERCOSUR region.

28. **Mr. Khane** (Secretary of the Committee) said that the following countries had joined as sponsors of the draft resolution: Angola, Azerbaijan, Brazil, Cape Verde, the Congo, Côte d'Ivoire, Croatia, Ghana, Honduras, Indonesia, Israel, Liberia, Nigeria, Norway, Panama, Peru, the Republic of Moldova, Thailand, the former Yugoslav Republic of Macedonia, the United Republic of Tanzania and Uruguay.

29. **Mr. Amorós Núñez** (Cuba), speaking in explanation of position, said that his country supported the draft resolution. Cuba also associated itself with paragraph 9, particularly the last part, but noted that the decision of the High Commissioner's Office to strengthen national protection had not taken into account intergovernmental agreements or the principle of consent for the High Commissioner's field operations. Furthermore, it applied to developing countries only, leaving aside the universality of human rights, and assumed that only developing countries needed support to strengthen human rights. Cuba would be watching closely to ensure that that deficiency was not repeated.

30. *Draft resolution A/C.3/63/L.21, as orally revised, was adopted.*

Draft resolution A/C.3/63/L.22: Combating defamation of religions

31. **Ms. Awino Kafeeo** (Uganda), introducing the draft resolution on behalf of the Organization of the Islamic Conference and the other sponsors, said that there had been a disturbing increase in xenophobia and racial violence. Such discrimination prevented individuals from exercising their basic human right to practise their religion freely without fear of reprisals. Given that the draft resolution denounced the defamation of all religions, it was regrettable that some

delegations had not expressed their support for it. That approach was surprising, given that all Member States had supported the United Nations Global Counter-Terrorism Strategy, which also aimed to prevent the defamation of religions, religious values, beliefs and cultures. Her delegation called on Member States to support the draft resolution and noted that a revised text would be issued.

Draft resolution A/C.3/63/L.27: Human rights and extreme poverty

32. **The Chairman** said that the draft resolution had no programme-budget implications.

33. **Mr. Pérez** (Peru) said that the following countries had joined in sponsoring the draft resolution: Argentina, Belarus, Colombia, the Congo, Cuba, Kuwait and Pakistan.

34. **Mr. Khane** (Secretary of the Committee) said that the following countries had joined as sponsors of the draft resolution: Andorra, Bangladesh, Barbados, Bhutan, Cameroon, Cape Verde, the Dominican Republic, Guinea-Bissau, Iraq, Kenya, Lesotho, Montenegro, Mozambique, Myanmar, Nigeria, Thailand and Tunisia.

35. *Draft resolution A/C.3/63/L.27 was adopted.*

36. **Ms. Phipps** (United States of America) said that, while her country joined the consensus on the draft resolution, it had some reservations. In the first preambular paragraph, the reference to reaffirming certain international instruments referred to the obligations of States parties under those instruments. It did not imply that States had obligations under human rights instruments to which they were not party.

37. Countries had primary responsibility for their own development. That was at the heart of country ownership and leadership. Principles which remained constant regardless of changing events or crises included not shirking commitments to good governance, sound policies and international support to national efforts towards sustained development and fighting poverty.

38. **Ms. Hoosen** (South Africa) said that extreme poverty and hunger were major challenges to developing countries, particularly in sub-Saharan Africa, and especially in view of the current food, energy and economic crises. Human rights and extreme poverty should be broadly defined to include such issues as marginalization, economic exclusion, lack of social cohesion and national integration, and elimination of racial discrimination. Regrettably, the draft resolution did not adequately deal with that. Extreme poverty could not be addressed effectively without the necessary linkages to development issues. The sponsors had failed to give due consideration to those issues.

39. There were also concerns regarding the terms of reference of the independent expert on the question of human rights and extreme poverty. Her mandate authorized her to assess the implementation of the Second United Nations Decade for the Eradication of Poverty without contextualizing a constructive environment in which it should take place. However, the Second Decade could not be meaningful without a clear programme of action setting out a vision with achievable objectives supporting concrete efforts to achieve the Millennium Development Goals and eradicate poverty. Any attempt to locate the mandate in processes peripheral to the work of the Human Rights Council was unacceptable and tantamount to "mandate creep". The draft resolution failed to address some core issues related to human rights and extreme poverty.

Draft resolution A/C.3/63/L.30: The right to development

40. **Mr. Amorós Núñez** (Cuba), speaking as a sponsor on behalf of the States Members of the United Nations that were members of the Movement of Non-Aligned Countries, introduced the draft resolution and recalled that the Declaration on the Right to Development confirmed that the right to development was an inalienable human right and the prerogative both of nations and of individuals. Given the urgent need to make further progress on the right to development, his delegation hoped that the United Nations would review the issue of establishing a legally binding instrument on the right to development; it also hoped that the Committee would adopt the draft resolution by consensus.

41. **Mr. Khane** (Secretary of the Committee) said that China, Côte d'Ivoire, Dominica and Somalia had joined the sponsors.

Draft resolution A/C.3/63/L.31: Human rights and unilateral coercive measures

42. **Mr. Amorós Núñez** (Cuba), speaking as a sponsor on behalf of the States Members of the United

Nations that were members of the Movement of Non-Aligned Countries, introduced the draft resolution and said that some States still made use of unilateral coercive measures in contravention of the Charter of Economic Rights and Duties of States. Unilateral coercive measures impeded the full realization of social and economic development and hindered the well-being of the population in the affected countries, especially women and children. His delegation therefore called on all Member States to stop using such measures, which contravened international human rights law.

43. *Mr. Peralta (Paraguay), Vice-Chairman, took the Chair.*

44. **Mr. Khane** (Secretary of the Committee) said that China and El Salvador had joined the sponsors.

Draft resolution A/C.3/63/L.32: Enhancement of international cooperation in the field of human rights

45. **Mr. Amorós Núñez** (Cuba), speaking as a sponsor on behalf of the States Members of the United Nations that were members of the Movement of Non-Aligned Countries, introduced the draft resolution and said that increased international cooperation and dialogue would undoubtedly contribute to the promotion and protection of human rights. In addition, the promotion and protection of human rights should be regulated through a framework based on the principles of universality, non-selectivity, objectivity and transparency in accordance with the Charter of the United Nations. His delegation hoped that the draft resolution would be adopted by consensus.

46. **Mr. Khane** (Secretary of the Committee) said that China and El Salvador had joined the sponsors.

47. *Mr. Majoor (Netherlands) resumed the Chair.*

Draft resolution A/C.3/63/L.34: Elimination of all forms of intolerance and of discrimination based on religion or belief

48. **Ms. Gasri** (France), speaking as a sponsor on behalf of the European Union, introduced the draft resolution and said that the sponsors had been joined by Argentina, Bosnia and Herzegovina, Costa Rica, El Salvador, Liechtenstein, San Marino and Venezuela (Bolivarian Republic of). The aim of the draft resolution was to provide a global approach to the implementation of all human rights instruments aimed at eliminating discrimination based on religion or belief and to support the mandate of the Special Rapporteur on freedom of religion or belief. It was essential that Member States should step up their efforts to guarantee freedom of belief by promoting education and dialogue. Her delegation hoped that the draft resolution would be adopted by consensus.

49. **Mr. Khane** (Secretary of the Committee) said that the sponsors had been joined by Albania, Benin, Cape Verde, Colombia, Cyprus, Ecuador, Guatemala, Honduras, Montenegro, Nicaragua, Nigeria, Panama, the Philippines, the Republic of Korea, the Republic of Moldova and Serbia.

Draft resolution A/C.3/63/L.38: Protection of migrants

50. **Ms. Rovirosa** (Mexico) introduced the draft resolution on behalf of the sponsors, which had been joined by Belarus, Colombia, Honduras, Kyrgyzstan, Lebanon, Tajikistan and Uruguay. The draft resolution urged States to promote and protect the human rights of all migrants, irrespective of their legal status, and expressed concern that the measures adopted by some States did not fully respect those rights. States were requested to adopt measures to protect the human rights of migrants in transit and to make every effort to keep families together. The draft resolution welcomed the measures taken by some States that allowed migrant families to integrate into the host countries within a framework of harmony, tolerance and respect. Her delegation hoped the draft resolution would be adopted by consensus.

51. **Mr. Khane** (Secretary of the Committee) noted that the following States had joined in sponsoring the draft resolution: Algeria, Armenia, Benin, the Comoros, Côte d'Ivoire, Eritrea, Ethiopia, Ghana, Guinea, Haiti, Iraq, Morocco, Nigeria, Sri Lanka and the Sudan.

Draft resolution A/C.3/63/L.39: Protection of human rights and fundamental freedoms while countering terrorism

52. **Ms. Rovirosa** (Mexico), introducing the draft resolution on behalf of the sponsors, said that Brazil, Canada, Colombia, Costa Rica, the Dominican Republic, Hungary, Israel, Mali, Malta, Nicaragua, Paraguay, Senegal, Serbia and Uruguay had joined the sponsors.

53. She said that the need to protect the population from terrorism did not justify the suspension of human rights, which should be the basis for any counter-terrorism measures. The draft resolution furthered that aim by calling for the continued implementation of the United Nations Global Counter-Terrorism Strategy; recognizing the need to continue ensuring fair and clear procedures in the United Nations sanctions regime; and welcoming the Security Council's review of the Consolidated List. She hoped that the draft resolution would be adopted without a vote.

54. **Mr. Khane** (Secretary of the Committee) said that Albania, Angola, Armenia, Benin, Cape Verde, Côte d'Ivoire, Cyprus, Iceland, Indonesia, Iraq, Montenegro, Nigeria, the former Yugoslav Republic of Macedonia and Venezuela (Bolivarian Republic of) had joined the sponsors.

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/C.3/63/L.26 and L.33)

Draft resolution A/C.3/63/L.26: Situation of human rights in the Democratic People's Republic of Korea

55. **Mr. Fieschi** (France), introducing the draft resolution on behalf of the European Union, Japan and the other sponsors, said that despite some positive signs, large-scale systematic violations of human rights continued to take place in the Democratic People's Republic of Korea. The draft resolution urged that State to, inter alia, ensure that those responsible for violations were brought to justice, tackle the root causes of refugee outflows, and cooperate with the relevant international human rights mechanisms. He urged all Member States to draw attention to the problem, and hoped that the draft resolution would gain the widest possible support.

56. **Mr. Khane** (Secretary of the Committee) said that Montenegro had joined the sponsors.

Draft resolution A/C.3/63/L.33: Situation of human rights in Myanmar

57. **Ms. Gasri** (France), speaking on behalf of the European Union and the other sponsors, said that the draft resolution strongly called on the authorities of Burma/Myanmar to respect human rights and cooperate fully with human rights organizations.

58. **Mr. Han** (Myanmar), speaking on a point of order, asked the Chairman to request speakers to use the official name of his country.

59. **The Chairman** reminded all delegations to use the official names of countries when referring to Member States.

60. **Ms. Gasri** (France), continuing her statement, said that, despite some positive measures, previous United Nations resolutions on the issue had not been implemented. A wide range of human rights abuses continued to take place in the State in question, and no measures had been taken to prosecute those responsible for the violent repression of peaceful demonstrations. She therefore hoped that the General Assembly would take action once again.

61. **Mr. Khane** (Secretary of the Committee) said that Montenegro had joined in sponsoring the draft resolution.

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/C.3/63/L.37)

Draft resolution A/C.3/63/37: Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto

62. **Mr. Khane** (Secretary of the Committee), presenting a statement of programme-budget implications of the draft resolution in accordance with rule 153 of the rules of procedure of the General Assembly, said that the Secretariat had informed the Third Committee in an oral statement at the sixty-first session that the financial implications of the entry into force of the Convention during the biennium 2008-2009 would be $1,511,200. In paragraph 23.15 of the proposed programme budget for the biennium 2008-2009 (A/62/6 (Sect. 23)), the Secretary-General had informed the General Assembly that the estimates for section 23 were likely to be revised during the current biennium as a result of entry into force of the Convention.

63. The Secretariat was currently finalizing the resource requirements of the departments responsible for implementing of the Convention and to service the Committee on the Rights of Persons with Disabilities established under the Convention. The revised estimates for all the sections concerned, particularly, sections 2, 23, 28D and 28E, which would include the estimated requirements under the programme budget

for the biennium 2008-2009 and the proposed programme budget for the biennium 2010-2011, would be submitted shortly to the General Assembly.

64. With regard to paragraph 8 of the draft resolution, attention was drawn to section VI of General Assembly resolution 45/248 B, in which the Assembly reaffirmed that the Fifth Committee was the appropriate Main Committee entrusted with responsibilities for administrative and budgetary matters and reaffirmed the role of the Advisory Committee on Administrative and Budgetary Questions.

65. **Ms. Rovirosa** (Mexico) said that the following countries had joined in sponsoring the draft resolution: Algeria, Angola, Bangladesh, Barbados, Bolivia, Cambodia, Cape Verde, Côte d'Ivoire, Cyprus, Ethiopia, Ghana, Greece, Indonesia, Jamaica, Japan, Kenya, Latvia, Liberia, Madagascar, Malawi, Mauritius, Montenegro, Morocco, Nigeria, the Philippines, Rwanda, Saudi Arabia, Senegal, Sierra Leone, South Africa, Suriname, Swaziland, Togo, Turkmenistan, Uganda, Ukraine, the United Republic of Tanzania and Yemen. The Convention had been signed in record time by 136 States and ratified by 41. It affirmed the commitment of the international community to promote the human rights of all persons with disabilities.

66. **Mr. Khane** (Secretary of the Committee) said that the following countries had joined as sponsors: Burkina Faso, the Comoros, Egypt, Guinea-Bissau, the Niger and Zambia.

67. *Draft resolution A/C.3/63/L.37 was adopted.*

Agenda item 61: Indigenous issues (*continued*) (A/C.3/63/L.17/Rev.1)

Draft resolution A/C.3/63/L.17/Rev.1: Indigenous issues

68. **Ms. Taracena Secaira** (Guatemala), introducing the draft resolution on behalf of the sponsors, said it was important to foster dialogue between the Committee and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. During negotiations, many delegations without representation in Geneva had stressed their particular need for such dialogue. The new paragraph 2 would extend involvement in the midterm assessment to every Member State with indigenous people, the relevant United Nations organizations and mechanisms, indigenous groups and other stakeholders. Paragraph 3 had been introduced during negotiations in order to further involve indigenous groups in the process. She hoped that Member States would support the United Nations Voluntary Fund for Indigenous Populations.

69. She said that Cuba, France, Hungary, Sweden and Uruguay had joined the sponsors.

70. **Mr. Khane** (Secretary of the Committee) noted that the following States had also joined the sponsors: Belize, Benin, the Congo, Côte d'Ivoire, Cyprus, Dominica, Iraq, Madagascar, the Philippines and Slovenia.

Agenda item 97: Crime prevention and criminal justice (*continued*) (A/C.3/63/L.10/Rev.1)

Draft resolution A/C.3/63/L.10/Rev.1: Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity

71. **Mr. Khane** (Secretary of the Committee), presenting a statement of programme-budget implications, said that his remarks concerned paragraphs 12, 13, 16 and 18 of the draft resolution. In reference to the request in paragraph 12, the resources to provide the required support to the conferences of the parties to the two conventions were included in the programme budget for the biennium 2008-2009 under section 2, General Assembly and Economic and Social Council affairs and conference management and section 16, International drug control, crime and terrorism prevention and criminal justice. The initial appropriation for the biennium for section 16 was $56,819,000.

72. The requests contained in paragraph 13 of the draft resolution would call for an increase in technical assistance to strengthen international cooperation in preventing and combating terrorism. Implementation of the activities laid out in paragraph 13 would be subject to the availability of extrabudgetary resources. Accordingly, adoption of the draft resolution would not give rise to any financial implications under the programme budget for the biennium 2008-2009. Paragraphs 12, 16 and 18 dealt with budgetary and administrative questions, which were the prerogative of the Fifth Committee.

73. **Mr. Mantovani** (Italy), speaking on behalf of the sponsors, said that organized crime interfered with or

superseded the normal functioning of public institutions, altered the functioning of the market and impacted legitimate economic activities. Its transnational dimension made it necessary for States to coordinate their response. The United Nations Convention against Transnational Organized Crime was the first international instrument to fight that scourge. The purposes of the draft resolution were to highlight the importance of the fight against transnational organized crime and to reaffirm the support of Member States for the United Nations Office on Drugs and Crime. Innovations in the draft resolution included references to conferences and resolutions on combating terrorism, human trafficking, cybercrime and violence against women.

74. **Mr. Khane** (Secretary of the Committee) said that the following countries had joined as sponsors of the draft resolution: Albania, Algeria, Angola, Armenia, Bangladesh, Belarus, Benin, Cape Verde, the Congo, Côte d'Ivoire, Cuba, the Dominican Republic, Egypt, Eritrea, Ethiopia, Ghana, Haiti, Honduras, Iceland, Indonesia, Jamaica, Japan, Kenya, Montenegro, Morocco, Namibia, Nicaragua, Nigeria, Norway, the Philippines, the Republic of Korea, the Republic of Moldova, Senegal, Serbia, Sierra Leone, the Sudan, Swaziland, the former Yugoslav Republic of Macedonia, Timor-Leste, the United Republic of Tanzania and Uruguay.

75. *Draft resolution A/C.3/63/L.10/Rev.1 was adopted.*

76. **Ms. Giménez-Jiménez** (Bolivarian Republic of Venezuela) said that her country had joined the consensus but had reservations regarding certain references in the preamble and in paragraph 3: there should be no direct link between terrorism and organized crime, because they had different motives. As a result, there was a disregard for due process and for the presumption of innocence in the draft resolution.

77. **Mr. Emadi** (Islamic Republic of Iran) said that his country had joined the consensus. However, in reference to paragraph 4, it was not necessary or appropriate to incorporate the reference to regional organizations with limited membership into General Assembly resolutions, including the one just adopted. The recommendations of regional organizations could not be regarded as obligatory for States which did not belong to those organizations.

Agenda item 98: International drug control (*continued*) (A/C.3/63/L.8/Rev.1)

Draft resolution A/C.3/63/L.8/Rev.1: International cooperation against the world drug problem

78. **Mr. Khane** (Secretary of the Committee), presenting a statement of programme-budget implications, said that his remarks concerned paragraphs 27, 30, 38, 41 and 42 of the draft resolution. Implementation of the activities enumerated in paragraphs 27, 30 and 41 would entail the provision of technical assistance funded from extrabudgetary resources. The Executive Director of the United Nations Office on Drugs and Crime had stated that extrabudgetary resources for the biennium 2008-2009 were projected at $30 million more than for the previous biennium.

79. In reference to paragraphs 38 and 42, the General Assembly had approved increased regular-budget resources under section 16 of the programme budget, which included the establishment of a new P-2 post in the secretariat of the International Narcotics Control Board. Hence, the draft resolution would entail no further appropriation for the biennium 2008-2009.

80. **Ms. Rovirosa** (Mexico), speaking on behalf of the sponsors, said that the following countries had joined as sponsors: Antigua and Barbuda, the Dominican Republic, Guyana, Honduras, Indonesia, the Lao People's Democratic Republic, Slovakia, the Sudan, Sweden and Uruguay.

81. She said that, in combating the scourge of drugs, the international community must respect the principles of sovereignty, territorial integrity and the legal equality of all States.

82. **Mr. Khane** (Secretary of the Committee) said that the following countries had joined as sponsors: Afghanistan, Albania, Algeria, Armenia, the Bahamas, Bangladesh, the Comoros, the Congo, Côte d'Ivoire, Cyprus, Egypt, Eritrea, Iceland, Iraq, Israel, Jamaica, Japan, Lesotho, Liberia, Lithuania, Mali, Montenegro, Morocco, the Republic of Korea, the Republic of Moldova, Sierra Leone, Swaziland, the former Yugoslav Republic of Macedonia and the United Republic of Tanzania.

83. *Draft resolution A/C.3/63/L.8/Rev.1 was adopted.*

84. **Mr. Salov** (Russian Federation) said that, while his country had decided to support the consensus on

the draft resolution, it would not join as a sponsor. Yet again, the issue of strengthening international cooperation to halt the global threat of narcotics production in Afghanistan was not adequately reflected in the draft resolution. Over the past two years, the resolutions had moved away from support for international cooperation in resolving the worldwide drug problem, with references to international cooperation disappearing from the text.

85. It was disappointing that the draft resolution contained no reference to support for future efforts to combat opium-poppy cultivation in Afghanistan and trafficking in narcotics originating in Afghanistan. It was not simply a question of singling out a particular country for mention; given the share of the global narcotics market occupied by opiates from Afghanistan, as well as the continued expansion of narcobusiness and terrorism there, the threat from Afghanistan was in fact global in nature. To underestimate it would be a serious error.

86. Likewise, it was a mistake not to refer in the draft resolution to Security Council resolution 1817 (2008), on the situation in Afghanistan, in which the Security Council had, for the first time, called upon Member States to strengthen the monitoring of the international trade in chemical precursors.

87. **Mr. Pak** Gil Yon (Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that his country totally rejected draft resolution A/C.3/63/L.26, entitled "Situation of human rights in the Democratic People's Republic of Korea", introduced by France on behalf of the European Union. It was a product of political fraud and lacked all objectivity and fairness. Systematic human rights abuses of the type described in the draft resolution were non-existent. People in his country fully enjoyed their human rights.

88. If the European Union was truly interested in protecting human rights worldwide, they should question the daily killing of innocent people in Afghanistan, Iraq and the Occupied Palestinian Territories. With the universal periodic review currently operational, the country-specific draft resolution was an example of anachronistic, cold-war thinking. The sponsors should cease submitting resolutions which led to confrontation and mistrust, and other Member States were urged to reject such overly politicized resolutions.

The meeting rose at 1.30 p.m.

United Nations A/C.3/63/SR.40

General Assembly
Sixty-third session
Official Records

Distr.: General
19 February 2009
English
Original: French

Third Committee

Summary record of the 40th meeting
Held at Headquarters, New York, on Tuesday, 18 November 2008, at 10 a.m.

Chairman:	Mr. Majoor	(Netherlands)
later:	Mr. Peralta (Vice-Chairman)	(Paraguay)
later:	Mr. Majoor (Chairman)	(Netherlands)

Contents

Agenda item 98: International drug control (*continued*)

Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*)

Agenda item 63: Right of peoples to self-determination (*continued*)

Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*)

Agenda item 58: Report of the Human Rights Council (*continued*)

Agenda item 62: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*)

Agenda item 63: Right of peoples to self-determination (*continued*)

Agenda item 64: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

08-60724 (E)

The meeting was called to order at 10.30 a.m.

Agenda item 98: International drug control (*continued*) (A/C.3/63/L.8/Rev.1)

Draft resolution A/C.3/63/L.8/Rev.1: International cooperation against the world drug problem

1. **Mr. Gonnet** (France), speaking on behalf of the European Union with reference to the adoption of draft resolution A/C.3/63/L.8/Rev.1 at the Committee's thirty-ninth meeting, said that the European Union was committed to international cooperation in dealing with the drug problem and regretted that delegations had not agreed to include in the text the notion of reducing the adverse consequences of drug abuse. First set out in the 1988 Declaration on the Guiding Principles of Drug Demand Reduction and later reinforced in General Assembly resolutions S-26/2 and 60/262, the notion was a crucial element of the global drug demand reduction strategy and therefore of efforts to combat drug addiction and HIV/AIDS, as emphasized by international organizations specialized in the subject. The European Union believed that the text should have focused on the essential aspects of the battle against drugs. The problem required a regional, international and multilateral approach, and a global effort based on the application of laws and on eradication, reduction of demand and alternative development initiatives. A proper assessment of global strategies relating to drugs was essential.

2. **Ms. Giménez-Jiménez** (Bolivarian Republic of Venezuela) said that her delegation welcomed the adoption of the draft resolution but had reservations concerning the wording of the sixth preambular paragraph and of paragraph 30. Terrorism and transnational organized crime were driven by different motives. Moreover, the two provisions in question did not give due attention to the presumption of innocence or to the guarantee of due process.

3. **Ms. Nadjaf** (Afghanistan) said that her delegation was grateful to all those delegations that had supported its position, and shared the international community's concerns. The drug problem was one of the main obstacles to both development and the establishment of the rule of law in Afghanistan. It also threatened the stability of the entire region. Her Government was determined to combat the production of and trafficking in narcotic drugs on Afghan soil and in the space of one year had made significant progress in that area, as indicated in the *World Drug Report 2008* of the United Nations Office on Drugs and Crime (UNODC). It should be recalled, however, that the Commission on Narcotic Drugs was responsible for the technical aspects of anti-drug efforts. The draft resolution sought to reinforce cooperation on a global scale and therefore called for a multilateral approach. The battle against drugs was a common and shared responsibility and therefore required action on both supply and demand. A specific reference to any country whatsoever would have distorted the spirit of the draft resolution. In informal consultations, her delegation had encouraged other delegations to take part also in the meetings of the working group responsible for drafting the General Assembly resolution on the situation in Afghanistan and to express their support for reconstruction efforts in the country. The drug problem was linked to the lack of security that prevailed in certain parts of Afghanistan. The working group's discussions sought specifically to approach the question comprehensively. In its concern for reaching a consensus, her delegation had held discussions throughout, particularly with the Russian delegation, in order to find a common position on preambular paragraph 6 bis and paragraph 44 of the draft resolution. The agreed text was a good basis for a coherent and balanced resolution.

4. **Ms. Tynybekova** (Kyrgyzstan) expressed regret that her delegation had been unable to sponsor the draft resolution before its adoption by the Committee. She hoped that the Secretariat would add Kyrgyzstan to the list of sponsors before the draft resolution's adoption by the General Assembly.

Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*) (A/C.3/63/L.54, L.55 and L.58)

Draft resolution A/C.3/63/L.54: Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees

5. **Ms. Hassan** (Djibouti), speaking also on behalf of the Republic of Moldova, introduced the draft resolution. Reading out the two provisions of the text, she said that the Governments of Djibouti and the Republic of Moldova were determined to protect the rights and well-being of refugees and displaced persons. In view of the essential role played by the

Executive Committee of the Programme of the United Nations High Commissioner for Refugees in that regard, the two countries, which were parties to the main international and regional instruments relating to the protection of refugees and displaced persons, wished to share their experience as asylum and refuge countries with the Executive Committee. With that in mind, they had endeavoured, with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR), to strengthen their capabilities. Their participation in the Executive Committee's work would enable them to collaborate even more effectively in any action taken by the international community in that regard. They counted on the support of other delegations and hoped that the draft resolution would be adopted by consensus.

6. **The Chairman** said that Angola, Ecuador, Egypt, Israel, Italy, Mauritania and the Sudan had become sponsors of the draft resolution.

Draft resolution A/C.3/63/L.55: New international humanitarian order

7. **Ms. Al-Zibdeh** (Jordan) introduced the draft resolution on behalf of its sponsors. Jordan had submitted the resolution since 1981 to underscore the responsibility of States to deal with emergency humanitarian situations. She highlighted the main points of the current draft resolution and expressed the hope that it would be adopted by consensus. In addition, she pointed out that delegations had agreed to delete the words "where possible" in the second and third lines of the third preambular paragraph. She hoped the oral revision would be taken into account in the final text. Lastly, she said that Benin had become a sponsor of the draft resolution.

8. **The Chairman** said that Nigeria had also become a sponsor of the draft resolution, as orally revised.

Draft resolution A/C.3/63/L.58: Assistance to refugees, returnees and displaced persons in Africa

9. **Mr. Dhalladoo** (Mauritius), introducing the draft resolution on behalf of the Group of African States, recalled the draft African Union Convention on the protection of and assistance to internally displaced persons in Africa, and highlighted the particular attention given to the protection of women and children. He hoped that the draft resolution would be adopted by consensus and that non-African countries would become sponsors.

10. **The Chairman** said that Azerbaijan had become a sponsor of the draft resolution.

Agenda item 63: Right of peoples to self-determination (*continued*) (A/C.3/63/L.50/Rev.1)

Draft resolution A/C.3/63/L.50/Rev.1: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

11. **Ms. Pérez Álvarez** (Cuba), introducing the draft resolution on behalf of its sponsors, said that the annual resolution on the subject, adopted also in the Commission on Human Rights and now the Human Rights Council, enjoyed the support of most Member States. Regrettably, the text was still relevant, since certain States continued to resort to the use of mercenaries to destabilize legitimate governments or stifle equally legitimate national liberation movements. She highlighted the main provisions of the current draft resolution and drew attention to the references to the Working Group that had been added to paragraphs 9 and 13 at the suggestion of the delegation of South Africa. She urged delegations to sponsor the draft resolution and to vote in favour of it when the time came.

12. **The Chairman** said that Algeria, Côte d'Ivoire, the Dominican Republic, Liberia, Malawi, Nigeria and Sierra Leone had become sponsors of the draft resolution.

Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*) (A/C.3/63/L.54)

Draft resolution A/C.3/63/L.54: Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees

13. **The Chairman** said that the draft resolution contained no programme budget implications and that Benin had become a sponsor.

14. *Draft resolution A/C.3/63/L.54 was adopted.*

15. **Ms. Hassan** (Djibouti), speaking also on behalf of the Republic of Moldova, thanked delegations for adopting the draft resolution by consensus.

Agenda item 58: Report of the Human Rights Council (*continued*) (A/C.3/63/L.47)

Draft resolution A/C.3/63/L.47: Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

16. **Mr. Khane** (Secretary of the Committee) said that, if the draft resolution was adopted, additional requirements of $15,900 and $284,600 would be required in 2009 and 2010-2011 respectively. If the Optional Protocol entered into force in late 2009 or early 2010, the programme budget implications for the biennium 2008-2009 would be limited to the costs arising from the signing ceremony to be held in Geneva, in other words $13,700 for conference services and interpretation and $2,200 for the travel of one staff member from the Office of Legal Affairs in New York. During the biennium 2010-2011, the Committee on Economic, Social and Cultural Rights would begin receiving communications. One new post at the P-4 level would need to be created to assist that Committee in carrying out its new functions. The estimated cost of the post was $184,800 for the biennium in question. It would also be necessary to recruit an additional staff member at the P-3 level in the following biennium.

17. It was envisaged that the visits provided for under article 11 of the Optional Protocol would last at least one week and be carried out by three members of the Committee on Economic, Social and Cultural Rights, accompanied by three staff members and four interpreters. An estimated $99,800 would be needed for the two visits to be carried out in 2011. The amount under section 35 (Staff assessment) would be offset by an equivalent amount under income section 1 (Income from staff assessment).

18. No provision had been made under the programme budget for the biennium 2008-2009 to meet the additional requirements arising from the signing ceremony. The Secretariat would absorb those requirements, to the extent possible, within the provisions under sections 2 and 23 of the programme budget. It should be noted that the additional requirements for 2009 ($15,900) would be met from within existing resources of the programme budget for the biennium 2008-2009 and that the estimated requirements for the biennium 2010-2011 ($284,600) would be considered within the context of the proposed programme budget for that biennium. No additional appropriations would therefore be required as a result of the adoption of the draft resolution.

19. Lastly, he recalled that Azerbaijan, Honduras, Mongolia, Nicaragua and Venezuela (Bolivarian Republic of) had become sponsors of the draft resolution.

20. **Mr. Salgueiro** (Portugal) said that Bolivia, Burkina Faso, Cape Verde, the Dominican Republic, Indonesia and Ukraine had become sponsors of the draft resolution. The Optional Protocol established a communications procedure for alleged violations of economic, social and cultural rights similar to that already established for violations of civil and political rights. Moreover, it gave concrete meaning to the assertion that all rights were universal and interdependent and should be treated on an equal footing. He thanked non-governmental organizations (NGOs), Member States, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the members of the Committee on Economic, Social and Cultural Rights for their valuable efforts, without which the current outcome would not have been possible. The text of the Optional Protocol, which was the result of five years' work followed by consultations and negotiations, was a good compromise. While he was aware that some States were not yet in a position to accede to the instrument, he hoped that no obstacles would be placed in the way of the many States that were in favour of establishing a new mechanism for the protection and promotion of human rights. He also hoped that the Optional Protocol would enter into force in the near future. He called on all States that were committed to protecting and promoting human rights to adopt the draft resolution so that victims of violations of economic, social and cultural rights could make their voices heard.

21. **Mr. McMahan** (United States of America) said that his delegation, while not convinced that an optional protocol was needed, had participated constructively in the Working Group's deliberations and planned to join the broad consensus on the draft resolution, despite having some concerns about the final text. Economic, social and cultural rights, while just as important as civil and political rights, were nonetheless different from a legal point of view. Such differences were reflected in the text of the corresponding protocols. The International Covenant on Economic, Social and Cultural Rights provided that each State party must take steps to achieve

progressively the full realization of the rights recognized therein, to the maximum of its available resources; no such provision was made in the International Covenant on Civil and Political Rights. In addition, the latter contained provisions relating to remedies and enforcement procedures, while the former did not. It was, moreover, hard to determine whether or not economic, social and cultural rights had been satisfactorily realized. As for the right to an adequate standard of living and the right to the highest attainable standard of health, it was not easy to distinguish between cases where they had not been fully realized and cases where they had been violated.

22. The United States did not wish to stand in the way of States parties to the International Covenant on Economic, Social and Cultural Rights that chose to make use of the non-binding communications procedure set out in the Optional Protocol. It did, however, continue to believe that a committee of international experts, no matter how qualified, would struggle to examine individual complaints in a manner that was consistent with the provisions of the Covenant and respectful of the sovereign right of States to decide how they allocated the limited resources at their disposal in order to bring basic services to their populations.

23. **Ms. Hopkins** (United Kingdom) said that her delegation had a number of concerns about the draft resolution under consideration. While firmly convinced that all rights were universal, indivisible and mutually reinforcing, her delegation considered that economic, social and cultural rights, the realization of which was progressive, did not lend themselves to third party adjudication in the same way that other rights did. It therefore questioned the usefulness of an individual complaint mechanism for those rights. That a comprehensive approach had been favoured over the "à la carte" approach supported by her delegation made it even more difficult for the United Kingdom to accede to the Optional Protocol. Referring to article 8, paragraph 4, of the Optional Protocol, she said that the Committee on Economic, Social and Cultural Rights should concentrate on gross violations rather than on considering the reasonableness of the steps taken by a State party. Her delegation would also have preferred the Optional Protocol to specify that the aforementioned Committee could consider a communication only when all domestic remedies had been exhausted. The changes made to articles 1 and 2 of the Optional Protocol after the submission of the Working Group's report, meanwhile, were understood by her delegation to relate to the rights set out in Part III of the International Covenant on Economic, Social and Cultural Rights, since no rights were set out in Part II of the Covenant. When a complaint was referred to it, the Committee on Economic, Social and Cultural Rights should therefore consider whether the State in question had violated an individual right set out in Part III of the Covenant, read in conjunction with Part II of the Covenant. Furthermore, her delegation fully endorsed the decision of the Human Rights Committee not to consider violations of the right of peoples to self-determination on the grounds that it was not an individual right. The Committee on Economic, Social and Cultural Rights should take the same approach when the Optional Protocol entered into force and should refuse to consider any complaint submitted under Part I of the Covenant or to investigate any alleged violation relating to that Part. Her delegation supported the draft resolution, which represented a good compromise, but regretted that the changes made to articles 1 and 2 of the Optional Protocol reflected the opinion of one group of countries rather than that of all Member States.

24. **Mr. Staur** (Denmark) said that his delegation questioned the appropriateness of establishing an individual complaint mechanism for the Optional Protocol, since most of the rights set out in the International Covenant on Economic, Social and Cultural Rights did not have immediate legal effect and were not suited to such a mechanism. Given the nature of those rights, his delegation feared that the Committee on Economic, Social and Cultural Rights would end up functioning as a legislator and determining the allocation of States parties' resources in that sphere, when that was the responsibility of legitimately elected national democratic institutions. That said, his delegation acknowledged that a significant number of States wished to see the Optional Protocol adopted by consensus and would not therefore insist on a vote.

25. **Ms. Hoosen** (South Africa) said that civil and political rights were meaningless unless underpinned by the practical realization of economic, social and cultural rights. Her delegation would have preferred the Optional Protocol to address the transfer of competence from the Economic and Social Council to the Committee on Economic, Social and Cultural

Rights, in order to correct the current disparities between the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Her delegation had actively participated in drafting the Optional Protocol, with a view to obtaining an effective instrument for the provision of assistance to the victims of violations of economic, social and cultural rights, and, like other delegations, supported the adoption by the Committee of the Optional Protocol.

26. **Mr. Michelsen** (Norway) said that his delegation considered the implementation of economic, social and cultural rights to be as important as the implementation of civil and political rights. The International Covenant on Economic, Social and Cultural Rights had been incorporated into Norway's legal system, and its provisions therefore took precedence over domestic legislation and could be invoked directly in court. Nonetheless, his delegation considered that some of the rights set out in the Covenant were vaguely worded. Such rights had a bearing on the national distribution of economic and social wealth and did not therefore lend themselves to third party adjudication. His delegation had some concerns about interim measures and wished to stress that requests for such measures transmitted to States parties were not legally binding. It was also concerned that the Optional Protocol might lead to interference with States' broad margin of appreciation with regard to the implementation of Covenant rights and that accession to the Optional Protocol might have economic and political consequences.

27. *Draft resolution A/C.3/63/L.47 was adopted.*

28. **Mr. Díaz Bartolomé** (Argentina), recalling the principles enshrined in the 1993 Vienna Declaration and Programme of Action, said that the obligation to respect and guarantee the enjoyment of all the rights protected by international agreements applied to political, economic, social and cultural rights. His delegation had joined the consensus on the understanding that the individual complaint mechanism was not applicable to a collective right, in accordance with the well-established case law of the Human Rights Committee, which affirmed the inadmissibility of any complaint dealing with the right of peoples to self-determination enshrined in article 1 of the International Covenant on Civil and Political Rights.

29. **Mr. Ashiki** (Japan) expressed regret that the text of the Optional Protocol had been changed at the last minute, without leaving enough time for interested delegations to hold the necessary consultations. Although not fully satisfied with the draft resolution, his delegation had not objected to its adoption by consensus, given its importance and the efforts that had been made. Referring to article 2 of the International Covenant on Economic, Social and Cultural Rights, he said that the Covenant itself recognized the existing differences among States parties as to the status of implementation of the rights involved. Japan might consider becoming a party to the Optional Protocol, provided that the implementation of the individual complaint mechanism was examined more closely, in particular with regard to the rules to be established and adjustments to be made by the Committee on Economic, Social and Cultural Rights. It would also be useful to consider the extent to which the Covenant allowed for the progressive realization of those rights.

30. *Mr. Peralta (Paraguay), Vice-Chairman, took the Chair.*

31. **Ms. Laurenson** (New Zealand) said that, in the Open-ended Working Group, her delegation had sought to ensure that the scope of the Optional Protocol was specifically defined and that the individual complaint procedure did not overburden the Committee on Economic, Social and Cultural Rights or impede the periodic consideration of States parties' reports. The individual complaint mechanism instituted by the Optional Protocol would enhance that Committee's capacity to consider, in a timely and effective manner, allegations of serious human rights violations while allowing it to decide on the admissibility of complaints; her delegation hoped that the mechanism would help States carry out their obligations under the International Covenant on Economic, Social and Political Rights. She wished to place on record her view that article 8, paragraph 4, of the Optional Protocol did not give the Committee concerned any scope to second-guess the decisions of democratically elected Governments in progressively meeting their obligations under the Covenant. With regard to articles 2 and 11 of the Optional Protocol, she said that the right of peoples to self-determination was a collective right which, accordingly, could not be invoked in an individual complaint procedure. She called on the Committee on Economic, Social and Cultural Rights to follow the practice of the Human Rights Committee in

its refusal to admit communications concerning the right of peoples to self-determination set forth in article 1 of the Covenant.

32. *Mr. Majoor (Netherlands) resumed the Chair.*

33. **Ms. Janson** (Canada) said that her delegation had consistently raised concerns about the proposed communications procedure relating to economic, social and cultural rights. In particular, the Optional Protocol did not take sufficiently into account the deference that should be accorded to States' decisions on general policy and the allocation of resources. Moreover, some rights contained in the International Covenant on Economic, Social and Cultural Rights were too broadly defined to be subjected to quasi-judicial assessments. She reiterated that part I of the Covenant was not included within the scope of the Optional Protocol and, in particular, the complaint and inquiry procedures contained therein. The Committee on Economic, Social and Cultural Rights should follow the example of the Human Rights Committee and refuse to consider communications relating to article 1 of the two International Covenants, given that the right of peoples to self-determination remained subject to the State reporting process set out by the International Covenant on Economic, Social and Cultural Rights.

34. **Mr. Frommelt** (Liechtenstein) said that his delegation had joined the consensus but had not become a sponsor of the draft resolution owing to its objections to some provisions of the Optional Protocol. Notwithstanding article 2 of the Optional Protocol, which lacked clarity owing to last-minute changes, the Committee on Economic, Social and Cultural Rights could examine, under article 8, paragraph 4, communications relating not only to the rights enshrined in part III of the International Covenant on Economic, Social and Cultural Rights, but also to those contained in part II of the Covenant, including the equal right of men and women to the enjoyment of all economic, social and cultural rights. Moreover, the negative formulation in article 3, paragraph 2 (e), was not appropriate for such an important legal document. With regard to article 14, paragraph 3, of the Optional Protocol, he noted that the establishment of a trust fund linked to the individual complaint procedure would be discriminatory against States which were parties to the Covenant but had not yet accepted the Optional Protocol, and which duly submitted regular reports on the implementation of the whole Covenant. Furthermore, such a fund would have the potential for duplication with various existing funds established by United Nations agencies that could be asked to provide assistance to States under article 14, paragraphs 1 and 2. Regrettably, the inclusion of that provision had been based on opportunistic political considerations and could weaken the legal force of the Optional Protocol.

35. **Mr. Lundberg** (Finland) thanked all Member States for their constructive collaboration in the adoption of the Optional Protocol, which was a balanced text reflecting in the best possible way the compromise achieved. The Optional Protocol was an important step towards the realization of human rights. His delegation hoped that the greatest possible number of States would rapidly sign and ratify it, as Finland itself intended to do.

36. **Ms. Tomič** (Slovenia) welcomed the adoption of the draft resolution by consensus. The implementation of the Optional Protocol would serve as a way of remedying and preventing violations of economic, social and cultural rights and would help bring to light and raise awareness of abuses linked to poverty and economic, social and cultural discrimination. Her delegation commended the Optional Protocol's comprehensive scope and thanked the Chairperson of the Open-ended Working Group, the International NGO Coalition for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the members of the Committee on Economic, Social and Cultural Rights for their contributions to the elaboration of the Optional Protocol.

37. **Mr. Vigny** (Switzerland) recalled his delegation's position that economic, social and cultural rights were a matter for national legislative bodies and that international obligations in that regard mostly concerned general policy issues. Without calling into question the provisions of the International Covenant on Economic, Social and Cultural Rights or the universality of the rights enshrined therein, his delegation felt that the mechanisms provided for in the Optional Protocol covered only rights that could be invoked by an individual; the right of peoples to self-determination was therefore excluded from the Optional Protocol's scope of application. His delegation thanked Portugal for its help in elaborating the Optional Protocol.

38. **Mr. Heissel** (Austria) expressed the hope that the Optional Protocol and the associated individual

complaint and inquiry mechanisms which his delegation had helped develop would receive the broad support they deserved. To that end, States' right to use a variety of means to meet their obligations under the International Covenant on Economic, Social and Cultural Rights must be respected. He thanked the members and Chairperson of the Open-ended Working Group for bearing in mind that principle.

39. **Ms. Banzon-Abalos** (Philippines) said that the adoption of the Optional Protocol would no doubt fortify the international normative framework for economic, social and cultural rights, on the understanding that the Optional Protocol must be interpreted in the light of the International Covenant on Economic, Social and Cultural Rights, in particular the provisions of article 2 relating to the progressive realization of rights. Her delegation continued to believe that it was for her Government to determine national priorities and objectives with regard to the development and allocation of resources to allow for the full realization of the economic, social and cultural rights of Philippine citizens.

40. **Ms. Grabianowska** (Poland) said that quasi-judicial procedures were not well-suited to the enforcement of many economic, social and cultural rights, because they invited rulings based on the political preferences of the members of the Committee on Economic, Social and Cultural Rights rather than on strict law. Accordingly, her delegation would not consider any case law which that Committee might develop under the Optional Protocol as being applicable to States that chose not to become parties to the Protocol. Lastly, her delegation regretted that the text had been altered after the last meeting of the Open-ended Working Group, substantially broadening the catalogue of rights to be covered by the Optional Protocol. That practice was not in accord with the Working Group's mandate, under which the text of the Optional Protocol was to have been negotiated by the group.

41. **Mr. Şen** (Turkey) said that his delegation had not objected to the compromise text elaborated in Geneva but would have preferred the opt-out approach to have been maintained in article 2 of the Optional Protocol, thereby allowing States to expand the range of rights covered by the individual complaint procedure progressively over time. His delegation would also have preferred maintaining the compromise reached in the Working Group on the limited approach in articles 2 and 11. It was Turkey's understanding that the right of peoples to self-determination was conferred upon peoples and could therefore not be invoked through an individual complaint mechanism.

42. **Ms. Kreibich** (Germany) said that, as a sponsor of the draft resolution, her delegation welcomed its adoption by consensus and thanked the Chairperson of the Working Group for her tireless efforts. Given that human rights were individual, persons should be able to bring complaints of violations of their fundamental rights, including economic, social and cultural rights, before an independent international body. It was the direct responsibility of States to ensure the realization of all economic, social and cultural rights, although some aspects of those rights could be realized only progressively. She was particularly pleased to see that an individual complaint mechanism for all those rights had been established in the Optional Protocol.

43. **Mr. Bennwik** (Sweden) said that his delegation was not convinced that giving the Committee on Economic, Social and Cultural Rights the power to consider individual complaints relating to the International Covenant on Economic, Social and Cultural Rights was the best way to promote those rights. His delegation had joined the consensus on the draft resolution but regretted that some of the views held by it and other delegations had not been taken into account. In particular, it would have preferred a more precise definition of the criteria for receiving and considering complaints, taking into account the nature of economic, social and cultural rights, the principle of non-discrimination and the need to avoid overburdening the Committee on Economic, Social and Cultural Rights. His delegation had, moreover, consistently opposed the idea of giving that Committee responsibilities relating to international assistance and cooperation, since doing so would lead to duplication with existing mechanisms and would distract that Committee from its primary function.

44. **Ms. Ernst** (Australia) said that, like the Human Rights Committee, the Committee on Economic, Social and Cultural Rights should not be able to be seized of complaints of violations of a collective right, including the right of peoples to self-determination. Moreover, according to article 4 of the Optional Protocol, the Committee on Economic, Social and Cultural Rights might reject spurious complaints and focus on cases where the author had suffered a clear disadvantage. Serious issues of general importance, meanwhile,

should be addressed through the reporting mechanism set out in articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights and the inquiry procedure established in articles 11 and 12 of the Optional Protocol, not through the individual complaint procedure. Lastly, her delegation attached great importance to article 8, paragraph 4, of the Optional Protocol, by virtue of which the Committee on Economic, Social and Cultural Rights must respect the right of States parties to decide on the measures to be adopted and the resources to be allocated for the progressive implementation of the rights set forth in the Covenant.

45. **The Chairman** asked whether delegations wished to transmit the Committee's recommendation concerning the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights to the General Assembly for its consideration in plenary meeting on 10 December 2008.

46. *It was so decided.*

Agenda item 62: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism and racial discrimination, xenophobia and related intolerance (*continued*) (A/C.3/63/L.49)

Draft resolution A/C.3/63/L.49: Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

47. **Mr. Khane** (Secretary of the Committee) read out a number of oral revisions that the Russian delegation had made to the draft resolution at the time of its introduction. In the sixth line of paragraph 2, the word "or" had been replaced by the word "and". In paragraph 12, the words "within existing resources" had been inserted after the words "to prepare". Moreover, he recalled that Belarus, Cape Verde, Côte d'Ivoire, Ethiopia, Kazakhstan, Nicaragua, Nigeria, South Africa and Turkmenistan had become sponsors of the draft resolution.

48. **The Chairman** said that the draft resolution contained no programme budget implications.

49. **Mr. Lukiyantsev** (Russian Federation) said that, although 70 years had passed since the beginning of the Second World War, it was still important to combat all forms of racism, discrimination, xenophobia and intolerance and condemn any attempt to rewrite history and glorify the Nazis. He proposed that, in the fourth line of paragraph 6, after the words "anti-Hitler coalition", the word "or" should be replaced by the word "and", to align the wording with that of paragraph 2, as orally revised on 11 November.

50. **The Chairman** said that Angola, the Dominican Republic, Iraq, Myanmar and Namibia had become sponsors of the draft resolution, as orally revised. He also informed the Committee that a recorded vote had been requested.

51. **Mr. Lukiyantsev** (Russian Federation) asked which delegation had requested a recorded vote on the draft resolution.

52. **The Chairman** said that the recorded vote had been requested by the delegation of the United States.

53. **Mr. Gonnet** (France), speaking on behalf of the European Union; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania and Montenegro; and, in addition, the Republic of Moldova and Ukraine, said that the European Union remained strongly committed to the global fight against racism, racial discrimination, xenophobia and intolerance. Neo-Nazism was a particularly abhorrent manifestation of racism and xenophobia and must be firmly combated by all. Regrettably, neo-Nazism persisted in many societies, including in European Union countries and countries that had sponsored the draft resolution. The threat of neo-Nazism must be tackled within efforts to eliminate all forms of racism and xenophobia, through effective measures at the regional, national and international levels and, in particular, through the full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action.

54. The ideas that neo-Nazism sought to undermine — in particular, that all men and women were born free and equal in dignity and rights — were at the core of what the United Nations stood for. Combating neo-Nazism and other manifestations of racism and xenophobia must therefore be a common priority. For those reasons, the European Union had expressed a strong desire to participate actively in informal consultations with the main sponsors of the draft resolution with a view to finding ways to ensure that it provided a real and serious response to

contemporary forms of racism, racial discrimination, xenophobia and intolerance. It was regrettable that it had not been possible to consider the draft resolution in greater detail and that the main sponsors had been reluctant to take into account the concerns raised by the European Union and other delegations.

55. As in previous years, the draft resolution had a selective and unsubstantiated focus which disregarded and deflected attention from those concerns. The European Union had proposed that the draft resolution should adopt a more comprehensive, objective and legally appropriate approach that could provide real added value to the global fight against racism, racial discrimination, xenophobia and intolerance. It would have liked the draft resolution's inaccurate citations of the Judgement of the Nuremberg Tribunal to have been rectified.

56. Another matter of concern related to the view taken in the draft resolution for addressing such practices. The European Union fully agreed on the need to combat all forms of racism, racial discrimination, xenophobia and intolerance. However, to be effective, such efforts must be in line with articles 4 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and could not undermine human rights and fundamental freedoms as defined by international law. That fundamental principle should have been given greater consideration in the draft before the Committee.

57. In the draft resolution, the Special Rapporteur was requested to report to the General Assembly and the Human Rights Council on the implementation of the resolution. That the Special Rapporteur had already been requested to report regularly to the Council and the Assembly should enable him to address contemporary forms of racism, racial discrimination and xenophobia in a comprehensive manner. The request contained in the draft resolution went against that comprehensive approach. For those reasons, the European Union would abstain from voting on the draft resolution.

58. **Mr. McMahan** (United States) urged delegations to vote against the draft resolution. His delegation shared the repugnance of the draft resolution's sponsors and of other Committee members at attempts to glorify and promote neo-Nazi ideology, but considered that freedom of expression, however unpleasant its manifestations, must be protected. The draft resolution went too far in that it failed to distinguish between action and statements that were covered by the right to freedom of expression and actions and statements that incited violence and should therefore be prohibited.

59. *A recorded vote was taken on draft resolution A/C.3/63/L.49, as orally revised.*

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Cape Verde, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

United States of America.

Abstaining:

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Equatorial Guinea, Estonia, Fiji, Finland, France,

Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland.

60. *Draft resolution A/C.3/63/L.49, as orally revised, was adopted by 122 votes to 1, with 54 abstentions.*

61. **Mr. Toder** (Ukraine) said that his delegation had abstained from voting on draft resolution A/C.3/63/L.49 on the grounds that it failed to condemn neo-Stalinism, even though the latter glorified a regime that had led, inter alia, to the destruction of key ethnic groups, including Crimean Tatars, Karaites, Chechens, Dagestanians, Ukrainians, Estonians, Latvians, Lithuanians and Poles. Moreover, neo-Stalinism, which was currently spreading, introduced dangerous attitudes of intolerance, xenophobia and anti-Semitism into modern society.

Agenda item 63: Right of peoples to self-determination (*continued*) (A/C.3/63/L.48)

Draft resolution A/C.3/63/L.48: Universal realization of the right of peoples to self-determination

62. **Mr. Khane** (Secretary of the Committee) recalled that Cameroon, the Congo, the Libyan Arab Jamahiriya, Mali, Namibia, Somalia and Thailand had become sponsors of the draft resolution.

63. **The Chairman** said that the draft resolution contained no programme budget implications.

64. **Mr. Tarar** (Pakistan) said that the fact that the resolution on the right of peoples to self-determination had been adopted by consensus every year since first presented in the 1980s epitomized the General Assembly's consistent reaffirmation of the central importance of that right, which was enshrined in the Charter of the United Nations. Noting that Liberia had become a sponsor of the draft resolution, he expressed the hope that the resolution would once again be adopted by consensus.

65. **Mr. Khane** (Secretary of the Committee) said that the Central African Republic, the Comoros, Guinea, Iraq and Ukraine had also become sponsors of the draft resolution.

66. *Draft resolution A/C.3/63/L.48 was adopted.*

67. **Mr. Díaz Bartolomé** (Argentina) said that his delegation supported the right to self-determination of peoples living under colonial domination or foreign occupation, in accordance with General Assembly resolutions 1514 (XV) and 2625 (XXV). However, the text of the draft resolution just adopted must be interpreted and applied in accordance with the relevant resolutions of the General Assembly and of the Special Committee on Decolonization concerning the special situation in the Malvinas Islands. He referred, in particular, to resolution 2065 (XX) and subsequent resolutions, in which the Assembly noted the existence of a dispute between the Governments of Argentina and the United Kingdom concerning sovereignty over those Islands and invited those Governments to proceed without delay with negotiations with a view to finding a just, peaceful and lasting solution to the problem, bearing in mind the interests of the population of the Islands.

68. **Mr. Gonnet** (France), speaking on behalf of the European Union and the candidate countries Croatia and Turkey, said that the right of peoples to self-determination was a fundamental principle of public international law that remained relevant in the current international context. Moreover, it was closely associated with the strengthening of international peace and with respect for all human rights and fundamental freedoms, democracy and the rule of law, including the principle of equality of citizens. Respect for that right implied the holding of free, regular and transparent elections within the framework of a democratic society.

69. The scope of the draft resolution just adopted remained too narrow. The European Union would have preferred the draft resolution to reflect more clearly the need for the right to self-determination to be exercised in accordance with international law. In addition, the text contained inaccuracies with regard to international law. The right to self-determination, as stated in the international covenants, referred to peoples, not nations. Moreover, it was incorrect to suggest that self-determination as such was a precondition for the enjoyment of other human rights. The European Union would have also preferred the draft resolution to address the right of return, in accordance with article 13, paragraph 2, of the Universal Declaration of

Human Rights. That and other omissions in the text might weaken the quality of the debate that should be taking place on such a key issue. Rather than having to make a statement setting out its concerns as in previous years, the European Union would have preferred to have the opportunity to discuss the draft with the main sponsors and other interested delegations.

70. Regrettably, the draft resolution just adopted, the text of which had barely changed in over 25 years, did not reflect recent developments, including the general recommendations and jurisprudence of treaty bodies. The European Union could only reiterate its hope that the text adopted in 2009 would encourage all States to respect their obligations in that regard and to cooperate with other Member States. It also hoped that the main sponsors of the following year's resolution would make a greater effort to address the concerns raised by some delegations.

71. **Mr. Toder** (Ukraine) said that his delegation wished to be removed from the list of sponsors.

72. **Mr. Khane** (Secretary of the Committee) said that a country's name could not be removed from the list of sponsors once the Committee had taken action on the draft resolution in question.

Agenda item 64 : Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/63/L.18/Rev.1)

Draft resolution A/C.3/63/L.18/Rev.1: Torture and other cruel, inhuman or degrading treatment or punishment

73. **The Chairman** said that the draft resolution contained no programme budget implications.

74. **Mr. Staur** (Denmark) said that the United Nations was built on fundamental standards and principles respected by all its Members; the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment was one such principle. However, people continued to be tortured and ill-treated throughout the world, sometimes for the purposes of obtaining information, often for no reason at all. The United Nations had a duty to speak out against such practices. The draft resolution was the culmination of extensive consultations open to all delegations and reflected the effort made to take account of their concerns to the extent possible. The text of the draft also reflected the compromises reached on national preventive mechanisms, the fight against impunity, the principle of non-refoulement, and solitary confinement. Lastly, he said that Cape Verde, the Dominican Republic, Israel, Kyrgyzstan, Nicaragua and Turkey had become sponsors of the draft resolution.

75. **Mr. Khane** (Secretary of the Committee) said that Bangladesh, Belarus, Burundi, Georgia, Madagascar, Mali, Micronesia (Federated States of), the Republic of Korea, Rwanda, Senegal, Togo and Ukraine had also become sponsors of the draft resolution.

76. *Draft resolution A/C.3/63/L.18/Rev.1 was adopted.*

77. **Ms. Gendi** (Egypt) said that her delegation had been unable to join the consensus on paragraph 27 of the draft resolution, which would have the General Assembly invite the Chairperson of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, established pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to present an oral report. Such a provision was in breach of the long-standing procedures of the Committee, which had long invited the chairpersons of universal treaty bodies to report to it but never the chairperson of a subcommittee established pursuant to a protocol that was not a self-contained treaty and to which only 37 States — in other words, less than a fifth of Member States — had acceded.

78. In a spirit of flexibility, her delegation had agreed to join the consensus on the draft resolution and even to participate actively in the Committee's interactive dialogue with the Chairperson of the Subcommittee but only on the understanding that the invitation would in no way constitute a precedent and would not be repeated in connection with the Protocol in question or any other non-universal protocol. Lastly, she asked for her statement to be placed on record.

79. **Ms. Halperin** (Israel) said that Israel was proud to be a sponsor of the draft resolution just adopted; however, the attribution of customary status to concrete international norms should be considered with the utmost caution. Like other States, Israel believed that, to be part of customary international law, a rule must be systematically and uniformly applied by States parties. Her delegation therefore understood the third

preambular paragraph to refer only to those international, regional and domestic courts that had held the prohibition of cruel, inhuman or degrading treatment or punishment to be customary international law. Lastly, she asked for her statement to be placed on record.

80. **Ms. Cross** (United Kingdom), expressing firm support for the draft resolution, which the United Kingdom had sponsored, said that the definition of an act or acts as acts of torture or other cruel, inhuman or degrading treatment or punishment must be based on precise facts. It also depended on the specific circumstances of each case. The draft resolution's preamble emphasized the importance of properly interpreting and implementing States' obligations with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, according to which the term "torture" meant any act by which severe pain or suffering was intentionally inflicted on a person for such purposes as obtaining information. That definition emphasized the intention behind the act and its purpose, rather than the nature of the act itself. The specific circumstances of each case were, therefore, of critical importance. Lastly, she asked for her statement to be placed on record.

The meeting rose at 1.05 p.m.

United Nations A/C.3/63/SR.41

General Assembly
Sixty-third session

Official Records

Distr.: General
20 January 2009

Original: English

Third Committee

Summary record of the 41st meeting
Held at Headquarters, New York, on Tuesday, 18 November 2008, at 3 p.m.

Chairman: Mr. Majoor ..... (Netherlands)

Contents

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

08-60736 (E)

The meeting was called to order at 3.15 p.m.

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/63/L.19/Rev.1 and A/C.3/63/L.62-68)

Draft resolution A/C.3/63/L.19/Rev.1: Moratorium on the use of the death penalty

1. **The Chairman** said that he had been informed that the draft resolution contained no programme budget implications.

2. **Mr. Llanos** (Chile), speaking as main sponsor, said that the Bolivarian Republic of Venezuela, Kyrgyzstan, Nicaragua, Palau and South Africa had joined the sponsors. Consultations on the draft resolution had been undertaken in a spirit of constructive dialogue. The current concise and simple text took into account proposals made by delegations that were deemed to be compatible with the spirit and purpose of the draft resolution. He hoped that it would enjoy the support of most delegations.

3. **Ms. Awino-Kafeero** (Uganda), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the right to life was recognized by Islam and indeed all religions. States had a duty to protect that right. Use of the death penalty was however an issue falling within the domestic jurisdiction of States, which had the sovereign right to establish their own justice systems. While some States had abolished the death penalty or imposed a moratorium on its use, the death penalty was not a violation of international law or international human rights instruments provided that it was not imposed in an arbitrary manner and there were adequate guarantees of due process. Given the lack of international consensus on the death penalty, the diverging points of view could be reconciled only in the context of multilateral discussions on the broader issue of the right to life in all its aspects.

4. **Mr. Menon** (Singapore) said that the muted reaction to the recent sentencing to death of the Bali bombers proved that opposition to the death penalty was more a matter of political expediency than moral principle. He underscored that the use of the death penalty was not a human rights issue but rather a criminal justice matter and was allowed under international law. Every State had the sovereign right to choose whether or not to use the death penalty. The current draft resolution therefore had no place in the United Nations.

5. The basic issue before the Committee was not the death penalty but whether a country had the right to decide on its use. That right was enshrined in Article 2, paragraph 7, of the Charter of the United Nations, concerning non-intervention by the Organization in matters essentially within the domestic jurisdiction of any State. Every State had the right to choose its legal and criminal justice systems just as any State had the right to abolish the death penalty or observe a moratorium on its use. The choice made by a State should be respected by others; no country or group of countries had the right to impose a position.

6. The minor changes made to the text of the draft resolution were not sufficient to make it acceptable. It continued to pass judgment on countries that retained the death penalty, for example by "reaffirming" the contentious resolution of the previous year, language generally reserved for consensus resolutions. The consultations on the draft resolution had led to superficial changes at best and did not reflect proposals to reaffirm the right of every State to choose its legal system. Forcing a resolution through was not the way to change views or promote respect for human rights. Diversity and differences of opinion must be respected. He urged all delegations to support the proposed amendments to the draft resolution and to vote against the draft resolution as submitted.

7. **Mr. Wolfe** (Jamaica) reaffirmed the right of States to choose their domestic political, social, economic and cultural systems without interference. That included the right to choose to apply the death penalty for serious crimes. He recalled Article 2, paragraph 7, of the Charter concerning non-intervention by the United Nations in matters that were essentially within the domestic jurisdiction of any State. Use of the death penalty fell within domestic jurisdiction. In addition, while the International Covenant on Civil and Political Rights enshrined the inherent right to life in paragraph 1 of article 6, paragraph 2 of that same article provided that the death penalty could be imposed for the most serious crimes pursuant to a final judgment rendered by a competent court. Many States had not signed the second Optional Protocol to the

Covenant aiming at the abolition of the death penalty. His delegation supported the proposed amendments to draft resolution A/C.3/63/L.19/Rev.1 and urged delegations to respect each other's points of view.

8. **Mr. Saeed** (Sudan) stressed that the death penalty was not prohibited under international law and that States had the sovereign right to adopt the criminal justice system of their choice without interference. States that retained the death penalty respected the decision by other States to abolish the death penalty or observe a moratorium on its use; the same courtesy should be extended to them. His Government imposed the death penalty only for the most serious crimes and with all safeguards of due process. His delegation therefore supported the proposed amendments with a view to achieving a balanced text and called on delegations to support the amendments and vote against the draft resolution as submitted.

9. **Mr. Attiya** (Egypt) said that respect for human dignity and the sanctity of life were highly revered principles of Islam as well as other religions. That was why Islamic law restricted the death penalty to the most serious crimes and only in application of due process. Article 6 of the International Covenant on Civil and Political Rights did not prohibit the death penalty but restricted the death penalty to the most serious crimes pursuant to a final judgment by a competent court, and with the right to seek pardon or commutation of the sentence. Guarantees of due process, and not the use of the death penalty itself, had clearly been the key element in the opinion of the drafters of the Covenant.

10. The restriction in article 6, paragraph 5, of the Covenant on imposition of the death penalty on persons below eighteen years of age reflected international agreement that the death penalty could be applied only to mature adults who were perfectly aware of the wrongful nature of their acts. The restriction on carrying out the death penalty on pregnant women showed respect for the right to life of the unborn child. Islam also considered elective abortion to be a crime that arbitrarily took an innocent life, without due process of law.

11. The draft resolution implied that States that retained the death penalty did so for political reasons, not to maintain social order and stability. The text claimed that there was a trend towards abolition, based on the report of the Secretary-General on moratoriums on the use of the death penalty (A/63/293), which was based on unverified information. States that chose to abolish the death penalty or implement a moratorium on its use as well as those States that chose to retain the death penalty were acting within their sovereign right and in accordance with international law. The draft resolution ignored the diversity of the legal, cultural and economic systems in the world and tried to impose one group's views on others.

12. The appropriate forum for discussing the use of the death penalty was the Human Rights Council, in the context of a comprehensive discussion of the right to life in all its aspects. Negotiations in that regard should be undertaken in a spirit of multilateral dialogue. There was likewise a clear desire within the international community to amend the relevant provisions of the International Covenant on Civil and Political Rights. The proposed amendments to the draft resolution reflected the desire of numerous States to strike a balance between the divergent points of view and should be supported by all delegations.

13. **Ms. Abubakan** (Libyan Arab Jamahiriya) underscored the right of States to impose the death penalty for the most serious crimes with a view to deterring criminals and ensuring justice for victims who had themselves lost their lives. Draft resolution A/C.3/63/L.19/Rev.1 was an attempt by some States to impose their views on others. The text would violate Article 2, paragraph 7 of the Charter of the United Nations. States had the sovereign right to establish a legal system and penalties in keeping with their culture and traditions with a view to striking a balance between the rights of the accused, the rights of victims and the needs of society. Furthermore, use of the death penalty was not prohibited by international law. She regretted that proposals to amend the draft resolution to make it more balanced had been rejected by the sponsors during the informal consultations.

14. The right to life was sacred and she welcomed, for example, the international community's efforts to eliminate violence and armed conflict. Her Government restricted the death penalty to the most serious crimes and ensured due process for those deemed to pose a threat to society because of the nature of their crimes. Her delegation would vote against the draft resolution and urged all delegations to do likewise.

15. **Ms. Halabi** (Syrian Arab Republic) said that the draft resolution was an attempt to force some States to change their freely chosen domestic legal system, in violation of the principle of Article 2, paragraph 7, of the Charter. States which retained the death penalty had the sovereign right to choose a legal system based on their national culture and the desire to balance the rights of criminals and their victims. She rejected any attempt to impose a single viewpoint on all States.

16. Use of the death penalty was a criminal justice issue, not a human rights issue. Its abolition would reward criminals rather than putting the victim's rights first. She recalled that use of the death penalty was allowed pursuant to article 6, paragraph 2, of the International Covenant on Civil and Political Rights. Her Government believed that, provided there had been trial before a competent court, the death penalty was a just penalty if an accused was found guilty of taking another's life.

17. The proposed amendments to the draft resolution were simply an attempt by States that wished to retain the death penalty to have their views reflected in a more balanced text. She called on all delegations to support those amendments.

18. **Ms. Zhang** Dan (China) regretted the re-introduction of a draft resolution which had failed to achieve consensus at the previous session of the General Assembly. That was counterproductive and confrontational and was not in keeping with a spirit of constructive dialogue. The sponsors should not attempt to impose their views on other States, in accordance with Article 2, paragraph 7, of the Charter. Choice of a legal system and the penalties for crimes was clearly a matter of domestic jurisdiction. The draft resolution politicized and complicated the issue of the death penalty.

19. Article 6, paragraph 2, of the International Covenant on Civil and Political Rights allowed the use of the death penalty for the most serious crimes. States were free to abolish or retain that penalty, or declare a moratorium on its use, in accordance with their specific legal and cultural traditions. She regretted that during informal consultations the sponsors had not been open to proposals that would have broadened the dialogue, avoided confrontation and led to a more balanced consensus text. She called on all delegations to support the proposed amendments and also vote against the draft resolution as submitted.

20. **The Chairman** drew the Committee's attention to the amendments to draft resolution A/C.3/63/L.19/Rev.1 contained in documents A/C.3/63/L.62 to 68, which contained no programme budget implications. He suggested that the Committee should take action on the proposed amendments in the order in which they had been submitted.

21. *It was so decided.*

22. **Mr. Attiya** (Egypt), introducing the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.62, said that Saint Kitts and Nevis had joined the sponsors. Recalling Article 2, paragraph 7, of the Charter, the amendment underscored that the choice of a legal system and penalties for crimes fell within a State's domestic jurisdiction. Use of the death penalty was allowed pursuant to article 6, paragraph 2, of the International Covenant on Civil and Political Rights. He regretted that the sponsors of draft resolution A/C.3/63/L.19/Rev.1 had chosen not to include similar language in the proposed text and called on all Member States to express support for the principles enshrined in the Charter by supporting the proposed amendment.

23. **Mr. Degia** (Barbados) said that recourse to the death penalty fell within the domestic jurisdiction of States and was permitted under international law for the most serious crimes. The sponsors of draft resolution A/C.3/63/L.19/Rev.1 were trying to impose their set of values on other countries, with no respect for their sovereignty or integrity. Given that the proposed amendment in document A/C.3/63/L.62 referred to the Charter, he hoped that all delegations would be able to support it.

24. **Mr. Menon** (Singapore) said that the proposed amendment protected the sovereign right of a Member State to decide on matters that fell within its domestic jurisdiction. His delegation would support the proposed amendment and urged all other delegations to follow suit.

25. **Ms. Zhang** Dan (China) said that the proposed amendment under consideration reflected the principles of the Charter and prevented interference in matters that fell within the domestic jurisdiction of States. She called on all delegations to vote in favour of it.

26. **Mr. Rastam** (Malaysia) said that the proposed amendment showed that there was no international consensus on the death penalty. On the other hand, it

seemed clear that there was consensus on the principles contained in the Charter, including the principle that each State had the right to decide how to organize its legal system. He, therefore, urged all delegations to support the proposed amendment.

27. **Mr. Santos** (Timor-Leste) said that draft resolution A/C.3/63/L.19/Rev.1 had been carefully worded to avoid controversy. The sponsors had rejected the proposed amendment because it quoted selectively from the Charter. They did not believe that the draft resolution violated the sovereignty of Member States because United Nations resolutions served as recommendations rather than legally binding rules. Given that the proposed amendment in document A/C.3/63/L.62 went against the spirit of the draft resolution, he urged all delegations to vote against it.

28. **Mr. Nikuljski** (The former Yugoslav Republic of Macedonia) said that draft resolution A/C.3/63/L.19/Rev.1 reaffirmed draft resolution A/C.3/62/L.29, which had clearly stated that it was guided by the purposes and principles contained in the Charter. In addition, it should be noted that the draft resolution under consideration served as a recommendation to Member States to rethink use of the death penalty. His delegation would therefore vote against the proposed amendment.

29. **Ms. Banks** (New Zealand) said that the proposed amendment in document A/C.3/63/L.62 was inappropriate and misleading because it quoted selectively from the Charter. Resolution A/C.3/62/L.29 had referred to the purposes and principles contained in the Charter as a whole. The selective quotation contained in the proposed amendment did not refer to States' obligations under Articles 1 and 13 of the Charter to promote and protect human rights and fundamental freedoms for all. In addition, United Nations resolutions did not authorize the Organization to intervene in matters within national jurisdiction, but rather were statements of political and moral authority which encouraged the international community to take certain actions. They did not impose a certain course of action on any State. For all those reasons, she urged all delegations to vote against the proposed amendment.

30. **Ms. Mndebele** (Swaziland) said that her delegation supported the proposed amendment because it believed in the principle that Member States should not interfere in matters that fell within the domestic jurisdiction of other States. It was for each Member State to decide on the punishments that it saw fit for particular crimes.

31. **The Chairman** said that the representative of Chile had requested a recorded vote on the proposed amendment in document A/C.3/63/L.62.

32. **Mr. Heller** (Mexico), speaking in explanation of vote before the voting, said that the Charter provided the guiding principles for international human rights instruments and the work of the Organization, including the work of the Third Committee. The proposed amendment contained a selective quotation from the Charter, and its only purpose was to impede discussions on the death penalty within the Committee. Given the importance of respecting all the principles of the Charter, he urged all delegations to vote against the proposed amendment.

33. **Mr. González** (Costa Rica) said that his delegation was firmly opposed to all the proposed amendments because they would weaken the draft resolution. While respecting the different opinions of delegations, he would vote against the proposed amendment under consideration.

34. **Mr. Jesus** (Angola) said that his delegation fully supported draft resolution A/C.3/63/L.19/Rev.1 and could see no value whatsoever in the proposed amendment. The draft resolution clearly reaffirmed earlier draft resolution A/C.3/62/L.29, which had referred to the principles contained in the Charter. It would therefore not be helpful to adopt a proposed amendment that quoted selectively from the Charter. In addition, draft resolution A/C.3/63/L.19/Rev.1 did not violate the domestic jurisdiction of States. He therefore urged delegations to vote against the proposed amendment.

35. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.62.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Bhutan, Bolivia, Botswana, Brunei Darussalam, China, Comoros, Congo, Cuba, Democratic People's Republic of Korea, Djibouti, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Gambia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan

Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Namibia, Nicaragua, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Algeria, Benin, Cambodia, Côte d'Ivoire, Equatorial Guinea, Ghana, Guatemala, Kenya, Lebanon, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Senegal, Sierra Leone, South Africa, Suriname, United Republic of Tanzania, United States of America, Zambia.

36. *The proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.62 was rejected by 81 votes to 67, with 23 abstentions.**

37. **Mr. Suárez** (Colombia) said that the proposed amendment had only referred to one part of the Charter and that had not been acceptable to his delegation. The draft resolution reaffirmed the previous year's resolution, which referred to the principles contained in the Charter as a whole. The sponsors had aimed to make draft resolution A/C.3/63/L.19/Rev.1 concise and clear.

38. **Mr. Degia** (Barbados), introducing the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.63, said that the draft resolution was not balanced and should not reaffirm General Assembly resolution 62/149 because that resolution had not been adopted by consensus. He called on delegations to support the proposed amendment and to ensure transparent and objective working methods in the Committee.

39. **Mr. Khane** (Secretary of the Committee) said that the Comoros had joined the sponsors of the proposed amendment.

40. **Mr. Rastam** (Malaysia) said that draft resolution A/C.3/63/L.19/Rev.1 reaffirmed General Assembly resolution 62/149 without reflecting the differences of opinion that had been expressed with respect to that resolution. Those differences of opinion still existed. The proposed amendment to replace the word "*Reaffirming*" with the word "*Recalling*" had been put forward in good faith and reflected those differences of opinion. He hoped that delegations would support the proposed amendment.

41. **Mr. Stastoli** (Albania) said that his delegation opposed any changes to the draft resolution. In particular, the word "*Reaffirming*" was the backbone of the text and drew attention to General Assembly resolution 62/149, which had represented a landmark achievement in the promotion and protection of human rights. That wording should therefore not be changed.

42. **Ms. Chan** Yu Ping (Singapore) said that the proposed amendment should be supported because it was not accepted practice to use the word "reaffirming" for controversial resolutions. Such wording would not indicate the divisions that had existed at the time of the adoption of General Assembly resolution 62/149. The proposed amendment would provide a fair way of referring to General Assembly resolution 62/149 and would show respect for standard practice at the United Nations.

* The delegation of Namibia subsequently informed the Secretariat that it had intended to vote against the proposed amendment. The delegation of Belize subsequently informed the Secretariat that it had intended to vote in favour of the proposed amendment.

43. **Mr. Dangue Réwaka** (Gabon), speaking as a sponsor of draft resolution A/C.3/63/L.19/Rev.1, said that the adoption of General Assembly resolution 62/149 had represented a historical landmark in the promotion and protection of human rights. The term "*Reaffirming*" in the first preambular paragraph was therefore appropriate, and was indeed at the core of the concise draft resolution. Moreover, it provided a connection with the work of the previous session. There was nothing in the rules or practices of the Committee to prevent the use of the term, which had appeared in a number of previous resolutions. His delegation would vote against the proposed amendment in document A/C.3/63/L.63.

44. **The Chairman** said that a recorded vote had been requested on the proposed amendment in document A/C.3/63/L.63.

45. **Ms. Cross** (United Kingdom), speaking in explanation of vote before the voting, said that her country was a sponsor of the draft resolution, which was brief and largely procedural. Given that the content of resolution 62/149 was not repeated in the current draft resolution, the term "*Reaffirming*" was necessary in order to express continued support. The use of the term was in keeping with established practice. In order to maintain the integrity of the draft resolution, her delegation would vote against the proposed amendment.

46. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.63.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Gambia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Bhutan, Cambodia, Djibouti, Equatorial Guinea, Ghana, Guatemala, Kenya, Lebanon, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Russian Federation, Senegal, Sierra Leone, South Africa, Sri Lanka, United Republic of Tanzania, Zambia.

47. *The proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.63 was rejected by 87 votes to 60, with 22 abstentions.*

48. **Mr. Attiya** (Egypt), introducing the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.64, said that Saint Kitts and Nevis had joined the sponsors. The proposed amendment was aimed at recognizing the note verbale dated 11 January 2008 from 58 Member States to the Secretary-General, which had been circulated as document A/62/658. In that document, the Member States had placed on record their persistent objection to any attempt to impose a moratorium on the use of the death penalty or its abolition. They had stated that,

under international law, there was no obligation to introduce such a moratorium or abolition. Some States had done so, and others had not; both were exercising their sovereign right.

49. The sponsors of draft resolution A/C.3/63/L.19/Rev.1 had refused to consider the proposed amendment. In the same way, at the previous session they had refused to allow Member States to vote on individual paragraphs of General Assembly resolution 62/149. To that end, they had resorted to a no-action motion, despite their own opposition to such motions in the case of country-specific resolutions. In the interests of democratization and multilateralism, he urged all delegations to support the proposed amendment.

50. **Mr. Zvachula** (Federated States of Micronesia), speaking as a sponsor of draft resolution A/C.3/63/L.19/Rev.1, said that the proposed amendment would give document A/62/658 the same importance as resolution 62/149. However, that document had never been adopted by the General Assembly; properly speaking, it could therefore not be reaffirmed. Moreover, its content went against that of the draft resolution. Accordingly, his delegation would vote against the proposed amendment.

51. **Mr. Yáñez-Barnuevo** (Spain), also speaking as a sponsor of draft resolution A/C.3/63/L.19/Rev.1, said it was inappropriate to refer to a note verbale from a group of Member States alongside a General Assembly resolution: they were documents of a different nature. The latter, unlike the former, had been negotiated and approved by a body with universal membership. Furthermore, the note verbale was referred to in the report of the Secretary-General contained in document A/63/293, which was in turn welcomed in paragraph 1 of the draft resolution. There was no need to refer to the note verbale again separately. Lastly, the proposed amendment went against the spirit of the draft resolution. His delegation would therefore vote against the proposed amendment.

52. **The Chairman** said that the representative of Chile had requested a recorded vote on the proposed amendment in document A/C.3/63/L.19/Rev.1.

53. **Mr. Vigny** (Switzerland), speaking in explanation of vote before the voting, said that document A/62/658 represented the view of a minority of Member States and was contrary to the spirit of the draft resolution. His delegation would therefore vote against the proposed amendment.

54. **Mr. Skračić** (Croatia), speaking as a sponsor of the draft resolution, said a reference to document A/62/658 was more than inappropriate — it would set a dangerous precedent. The purpose of the proposed amendment was to weaken the draft resolution; he urged all delegations to oppose it.

55. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.64.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Comoros, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia,

Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Bhutan, Cambodia, Congo, Côte d'Ivoire, Djibouti, Ghana, Guatemala, Kenya, Lebanon, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Senegal, Sierra Leone, South Africa, Sri Lanka, United Republic of Tanzania, Zambia.

56. *The proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.64 was rejected by 87 votes to 57, with 22 abstentions.*

57. **Ms. Chan** (Singapore), introducing the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.65, said that Saint Kitts and Nevis had joined as sponsors. The report of the Secretary-General claimed that there was a global trend towards abolition of the death penalty, but did not provide statistical evidence. No transparent and inclusive domestic polls had been carried out. Nor was it credible to count as abolitionist States that had not used the death penalty recently. The amendment emphasized the right of each State to choose the option that it deemed necessary.

58. **Mr. Spatafora** (Italy), speaking as a sponsor of draft resolution A/C.3/63/L.19/Rev.1, said that the proposed amendment in document A/C.3/63/L.65 would weaken a critical part of the text. During informal consultations, several relevant comments had already been accepted, and the first part of the second preambular paragraph of the draft resolution had been taken verbatim from the sixth preambular paragraph of General Assembly resolution 62/149.

59. There was in fact evidence of a global trend towards the introduction of a moratorium on the death penalty. In 1977, only 16 States had abolished the death penalty for all crimes. In 2008, that figure had risen to 92. More than two thirds of States had abolished the death penalty in law or practice. Only 24 had carried out an execution in 2007. No judicial system was immune to mistakes, and the death penalty was irreversible and irreparable. Hence the word "*Noting*", as opposed to "*Welcomes*", was not sufficient. His delegation would vote against the proposed amendment.

60. **Mr. Rastam** (Malaysia) said that his delegation was willing to accept the views of all Member States in a spirit of open dialogue. However, the second preambular paragraph of the draft resolution made a tacit value judgment and singled out certain Member States, in a manner contrary to the spirit of the Charter of the United Nations. The proposed amendment, which was factually accurate and constructive, would strike a balance. His delegation would vote in favour of it.

61. **Mr. Attiya** (Egypt), said that although the draft resolution was about the introduction of a moratorium, the second preambular paragraph emphasized abolition, something that had in fact been the intention behind the draft resolution from the beginning. The proposed amendment would act as a corrective; his delegation would vote in favour of it.

62. **The Chairman** said that a recorded vote had been requested on the proposed amendment in document A/C.3/63/L.65.

63. **Ms. Šćepanović** (Montenegro), speaking in explanation of vote before the voting, said that there was indeed a steady and long-standing global trend towards abolishing the death penalty. During the period 2007-2008, six additional countries had abolished it for all crimes and two for ordinary crimes. In total, 141 countries were now abolitionist in law or practice, and none had reintroduced it. A number of relevant international conventions had also been ratified.

64. The proposed amendment was not sufficient: the sponsors of draft resolution A/C.3/63/L.19/Rev.1 believed that the moratorium should apply universally to all crimes, and not only to those considered to be "the most serious crimes" under domestic legislation. The United Nations had, moreover, adopted numerous human-rights conventions that entailed obligations on domestic legal systems. She, therefore, urged all delegations to vote against the proposed amendment.

65. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.65.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Dominica, Egypt, Ethiopia, Fiji, Gambia,

Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Bhutan, Cambodia, Congo, Côte d'Ivoire, Djibouti, Ghana, Guatemala, Kenya, Lebanon, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Russian Federation, Senegal, Sierra Leone, South Africa, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

66. *The proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.65 was rejected by 86 votes to 59, with 24 abstentions.*

67. **Mr. Gaumakwe** (Botswana), introducing the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.66, said that Myanmar and Saint Kitts and Nevis had joined the sponsors. The proposed amendment would help balance the draft resolution and avoid double standards, something that the latter's sponsors had not done. Many Member States maintained the death penalty for the most serious crimes, and it was essential to include various concepts of justice.

68. **The Chairman** said that a recorded vote had been requested on the proposed amendment in document A/C.3/63/L.66.

69. **Ms. Chan** (Singapore), speaking in explanation of vote before the voting, said that the proposed amendment went to the core of the issue at hand: that it was the sovereign right of every country to determine its own legal system. She failed to understand why that position — which had been supported by a number of the sponsors of the draft resolution in reference to other resolutions of the Committee — could not be applied to the current draft. Her delegation would vote in favour of the proposed amendment and called upon all Member States to do likewise, with a view to ensuring a consistent position on the sovereign rights of States.

70. **Mr. Degia** (Barbados) said that the proposed amendment sought to lend balance to the draft resolution and reaffirmed that it was the right of all States to determine their own legal and penal systems in accordance with international law. A number of the sponsors had referred to that right in negotiations on other draft resolutions, and if that right was referred to in other draft resolutions, it should also be referred to in the current draft resolution and in other relevant draft resolutions across the board.

71. **Mr. Shingiro** (Burundi) said that draft resolution A/C.3/63/L.19/Rev.1 contained no provision that affected the sovereign right of States to determine the legal measures and penalties which were appropriate to their societies, in accordance with international law. Indeed, from a legal standpoint, the promotion of a moratorium on the death penalty could not be seen as interfering in the national jurisdiction of States.

72. Furthermore, the decision by an increasing number of States to apply a moratorium on executions and the trend towards abolition of the death penalty,

referred to in the draft resolution, had clearly been made unilaterally by the States concerned. The proposed amendment only served to dilute the content, substance and aims of the draft resolution. His delegation would thus reject the proposed amendment, and other Member States should do the same.

73. **Mr. Ripert** (France) said that the proposed amendment seemed to run completely counter to the spirit of the draft resolution and sought to diminish its impact. Contrary to what several members of the Committee had claimed in their statements, no one was contesting the right of States to make decisions within their own legal systems, nor was anything being imposed. The aim of the draft resolution was to draw on the General Assembly's right to make recommendations to assist in the realization of human rights and fundamental freedoms for all, as stated in the Charter of the United Nations. In fact, when States determined the legal measures and penalties which applied in their legal systems, the General Assembly had every right to ensure that those were in accordance with human rights.

74. The General Assembly had recognized on a number of occasions that the application of the death penalty restricted the enjoyment of human rights. Use of the death penalty could not be seen as an act of justice, and any legal system which respected human rights should, at the very least, exclude such a penalty. His delegation was thus opposed to the proposed amendment and called on all Member States to vote against it.

75. **Ms. Bustos** (Argentina) said that the proposed amendment undermined the aims of the draft resolution. Such extensive amendments couched in such general terms would only render the draft resolution imbalanced and alter its intended aim of highlighting the actions taken by States in applying the moratorium and the growing trend towards abolishing the death penalty. There was nothing in the draft resolution that limited the right of States to determine their legal or penal systems. The proposed amendment was superfluous in light of the reference that the draft resolution made to resolution 62/149 and could give the false impression that there were contradictions between the two resolutions. Her delegation would thus vote against the proposed amendment and urged others to do the same.

76. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.66.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Botswana, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Gambia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Congo, Djibouti, Ghana, Guatemala, Kenya, Lebanon, Liberia, Malawi, Mauritania, Morocco,

Niger, Peru, Republic of Korea, Senegal, Sierra Leone, South Africa, Suriname, United Republic of Tanzania, United States of America, Zambia.

77. *The proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.66 was rejected by 87 votes to 62, with 20 abstentions.*

78. **Mr. Degia** (Barbados), introducing the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.67 on behalf of its sponsors, said that Saint Kitts and Nevis had joined the sponsors. The draft resolution lacked balance and had the effect of imposing its sponsors' viewpoint on other Member States. As it was worded, the draft resolution "welcomed" the report of the Secretary-General on the implementation of resolution 62/149, whereas it was the normal United Nations practice to "note" reports of the Secretary-General whenever Member States were not comfortable with the reports.

79. That practice should be applied in the current case since a number of Member States had felt that the report in question was biased and drew on sources that the Secretary-General had not been mandated to use. It was hoped that the proposed amendment, which contained language that was consistent with that of other resolutions and moved the reference to the report of the Secretary-General from the operative to the preambular section of the text, would receive the support of the Committee.

80. **Ms. Nassau** (Australia) said that the report of the Secretary-General referred to in paragraph 1 of the draft resolution made a substantive contribution to the debate on the issue of the moratorium on the use of the death penalty. Her delegation thus would like to see the reference welcoming that report to be retained in the operative part of the draft resolution. The sponsors of the draft resolution had already accommodated some amendments to paragraph 1, removing the reference to an "endorsement" of the report's conclusions and recommendations, as requested by a number of delegations. The Secretary-General's report was balanced, taking into account the views of both abolitionist and retentionist countries. Her delegation was thus opposed to the proposed amendment.

81. **Mr. Attiya** (Egypt) said that since the report referred to in paragraph 1 of the draft resolution had based its conclusions on unauthenticated information and had not followed any real methodology, it would be best to take note of it rather than welcome it.

82. **Ms. Chan** (Singapore) said her delegation wished to support the proposed amendment, as it was not the practice in the United Nations or the Third Committee to welcome or refer to conclusions or recommendations of a report that contained elements that were objectionable to certain Member States. While some delegations claimed that the report made a substantive contribution, it did not reflect the opinion of the entire General Assembly.

83. Despite the deletion of the word "endorses" with reference to the conclusions and recommendations contained in the Secretary-General's report, the text remained unreasonable and inappropriate. Furthermore, there had been numerous references to notes verbales in resolutions in the past. Her delegation would thus vote in favour of the proposed amendment and urged others to follow suit.

84. **The Chairman** said that a recorded vote had been requested on the proposed amendment in document A/C.3/63/L.67.

85. **Ms. Miculescu** (Romania), speaking in explanation of vote before the voting, said that a reference to the Secretary-General's report was essential to the aim of the draft resolution, and that, given its substantial contribution to human rights, it should be welcomed and the reference should stay in the operative part of the text. She emphasized the substantial flexibility that the sponsors had demonstrated during negotiations on paragraph 1, as evidenced by their agreeing to delete the word "endorses" with regard to the conclusions and recommendations of the Secretary-General's report. Furthermore, that report was balanced and encompassed the viewpoint of both abolitionist and retentionist countries. She reminded the Committee that it was the practice for a General Assembly resolution to welcome the report of the Secretary-General when sponsors agreed with its content. She therefore urged the sponsors to vote against the proposed amendment.

86. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.67.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Comoros, Democratic People's Republic of Korea, Dominica, Egypt, Ethiopia, Fiji, Gambia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Bhutan, Côte d'Ivoire, Djibouti, Ghana, Guatemala, Kenya, Lebanon, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Senegal, Sierra Leone, South Africa, Suriname, United Republic of Tanzania, Zambia.

87. *The proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.67 was rejected by 88 votes to 59, with 20 abstentions.*

88. **Ms. Chan** (Singapore), introducing the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.68 on behalf of its sponsors, said that the proposed amendment was important for several reasons. First, it was inappropriate for the draft resolution to contain a request for a report on a previous resolution, since it was common United Nations practice to ask for a report on the current resolution. That would set an unusual precedent and could be used, in the future, to reopen obsolete or contentious issues from the past.

89. The words "calls upon" — in reference to the request in paragraph 2 of the draft resolution for Member States to provide information to the Secretary-General for his report — should be deleted, since that decision was the sovereign right of countries. Such a request was inappropriate and not in keeping with the practice of the Committee. Finally, making the resolution biennial was not productive and would only serve to repeat a divisive process. Though her delegation did not believe that the issue should be debated at all in the United Nations, in a spirit of tolerance, it had agreed to consider discussing the question every three years. Accordingly, she urged all delegations to vote in favour of the proposed amendment.

90. **Mr. Degia** (Barbados) said that the attempt to streamline paragraphs 2 and 3 of the draft resolution and restore the normal practice of the United Nations should be supported. In light of the precedent that the draft resolution was attempting to set by requesting a report on a resolution from an earlier year, if the proposed amendment were rejected, he would hope that when a future draft resolution was drawn up on a development-related issue or another question of importance to developing countries and his delegation sought to introduce similar language based on that precedent, those efforts would be supported.

91. **The Chairman** said that the representative of Chile had requested a recorded vote on the proposed amendment in document A/C.3/63/L.68.

92. **Ms. Juul** (Norway), speaking in explanation of vote before the voting, said that the proposed amendment was contrary to the aim and purpose of the

draft resolution. In light of the importance of the moratorium on the death penalty and to give Member States time to review and possibly change national legislation pertaining to the death penalty, the matter needed to be considered at least every other year. Furthermore, helping the Secretary-General to continue consideration of such a dynamic issue by calling on Member States to provide information for the report in question would ensure the best possible input. She thus rejected the proposed amendment and urged all Member States to vote against it.

93. **Ms. Intelmann** (Estonia) said that her delegation, as a sponsor of the draft resolution, opposed the proposed amendment, since the two operative paragraphs in question clearly aimed to take into account the comments made by various delegations and to guarantee the continuation of an open and constructive debate on the issue in the future. Making the resolution biennial was fitting since it allowed time to complete the legal changes needed to abolish the death penalty and for Member States to deliberate on the issue and implement the resolution. It was also an optimal time period to enable the United Nations to take stock of all the important developments in the field as they occurred.

94. The Secretary-General's progress report was valuable, and the request for information from Member States was important as that would contribute to a continuous, open debate on the issue of the death penalty. She also noted that the General Assembly had asked for reports to be made on previous resolutions. Her delegation thus strongly supported retaining the language in paragraphs 2 and 3 of the draft resolution and called on all delegations to reject the proposed amendment.

95. **Ms. Pi** (Uruguay) highlighted the merits of paragraphs 2 and 3 of the draft resolution, and rejected the proposed amendment. While the draft resolution might appear to merely touch on a procedural matter, it was important to request a report which referred not only to the draft resolution, but mainly to resolution 62/149, which contained substantive elements on which information was requested. A biennial resolution was a good compromise solution, especially considering the desire of some to consider the report annually and also in view of the time that was needed to reflect on and implement necessary legislative changes. In addition, biennial resolutions were in line with the most common United Nations practice. The request for States to provide information was a usual formulation. Her delegation thus rejected the proposed amendment.

96. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.68.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Comoros, Democratic People's Republic of Korea, Dominica, Egypt, Ethiopia, Fiji, Gambia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Bhutan, Cambodia, Côte d'Ivoire, Djibouti, Ghana, Guatemala, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Russian Federation, Senegal, Sierra Leone, South Africa, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

97. *The proposed amendment to draft resolution A/C.3/63/L.19/Rev.1 contained in document A/C.3/63/L.68 was rejected by 87 votes to 56, with 24 abstentions.*

The meeting rose at 6 p.m.

United Nations A/C.3/63/SR.42

General Assembly
Sixty-third session

Official Records

Distr.: General
12 January 2009
English
Original: French

Third Committee

Summary record of the 42nd meeting
Held at Headquarters, New York, on Thursday, 20 November 2008, at 10 a.m.

Chairman:	Mr. Majoor	(Netherlands)
later:	Ms. Seanedzu (Vice-Chairman)	(Ghana)
later:	Mr. Majoor (Chairman)	(Netherlands)

Contents

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

08-61083 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/63/L.19/Rev.1)

Draft resolution A/C.3/63/L.19/Rev.1: Moratorium on the use of the death penalty

1. **The Chairman** drew attention to the amendments to the draft resolution contained in documents A/C.3/63/L.62 to L.68, which had been voted upon, and said that the draft resolution did not have any programme budget implications.

2. **Mr. Degia** (Barbados) requested a separate vote on the first preambular paragraph of the draft resolution.

3. **Mr. Rastam** (Malaysia) said that delegations were far from reaching a consensus on the draft resolution. He proposed oral amendments to paragraphs 2 and 3 of the draft resolution to the effect that the report on progress made in the implementation of resolution 62/149 and of the draft resolution under discussion should be submitted at the sixty-sixth session of the General Assembly, rather than the sixty-fifth, and that consideration of the matter should continue at the sixty-sixth session, not at the sixty-fifth.

4. **Mr. Llanos** (Chile), speaking on behalf of the sponsors of the draft resolution, said that he opposed the amendments proposed by the representative of Malaysia, which were contrary to the purpose of the draft resolution.

5. **Ms. Chan** Yu Ping (Singapore) expressed her support for the proposal of the representative of Malaysia; she believed that it would be more appropriate to discuss the moratorium on the use of the death penalty every three years, since the issue divided Member States unnecessarily and wasted the Organization's time and money.

6. **Ms. Zhang** Dan (China) said that she fully shared the view of the representative of Singapore. Such debates did not help to eliminate differences of opinion; consideration of the issue should be deferred to the sixty-sixth session of the General Assembly.

7. **Mr. Ney** (Germany), speaking as a sponsor of the draft resolution, said that an increasing number of States were abolishing the death penalty and it was therefore appropriate to reconsider the issue every two years. It was regrettable that the Committee had wasted time considering amendments whose sole aim was to delay the adoption of the draft resolution. He encouraged Member States to reject the amendments to paragraphs 2 and 3.

8. **Ms. Banks** (New Zealand) agreed with the view expressed by the representative of Germany and said that the periodicity selected to consider the issue was appropriate.

9. **Mr. Attiya** (Egypt) welcomed the oral amendments put forward by the representative of Malaysia and encouraged the representatives of Member States to support them.

10. **Ms. Hindlsová** (Czech Republic), speaking as a sponsor of the draft resolution, said that consideration of the issue every two years would make it possible to better assess developments on the ground. The proposed amendments were therefore contrary to the spirit of the text and her delegation would vote against them.

11. *A recorded vote was taken on the oral amendment to paragraph 2 submitted by the representative of Malaysia.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Cambodia, Djibouti, Equatorial Guinea, Ghana, Guatemala, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Russian Federation, Senegal, Sierra Leone, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

12. *The oral amendment to paragraph 2 of draft resolution A/C.3/63/L.19/Rev.1 was rejected by 88 votes to 55, with 24 abstentions.*

13. *A recorded vote was taken on the oral amendment to paragraph 3 submitted by the representative of Malaysia.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Lao People's Democratic Republic, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Cambodia, Djibouti, Equatorial Guinea, Ghana, Guatemala, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Russian Federation, Senegal, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

14. *The oral amendment to paragraph 3 of draft resolution A/C.3/63/L.19/Rev.1 was rejected by 90 votes to 53, with 23 abstentions.*

15. **Mr. Ochoa** (Mexico), speaking on a point of order, asked which rule of the rules of procedure allowed a separate vote to be taken.

16. **The Chairman** said that rule 129 of the rules of procedure allowed a paragraph to be put to a separate vote.

17. **Mr. Ochoa** (Mexico) said that the Committee had already wasted a lot of time; he encouraged delegations to oppose the proposal of Barbados to vote on the first preambular paragraph of the draft resolution separately.

18. **Ms. Akbar** (Antigua and Barbuda) said that she supported the motion for division proposed by the representative of Barbados.

19. **Mr. Babadoudou** (Benin) requested clarification regarding the conduct of business.

20. **Mr. Degia** (Barbados) noted that he had simply requested a separate vote.

21. **The Chairman**, responding to the representative of Benin, said that under rule 129, permission to speak on the motion for division proposed by the representative of Barbados should be given to two speakers in favour and two speakers against.

22. **Ms. Akbar** (Antigua and Barbuda) explained that her delegation was in favour of a separate vote on the first preambular paragraph since delegations from Member States opposed to the adoption of the draft resolution under consideration, which dealt with an extremely controversial issue, had no alternative but to resort to such a procedural approach in order to demonstrate their opposition.

23. **Ms. Chan** Yu Ping (Singapore) said that she would also vote in favour of a separate vote. She added that the Committee should not be afraid of that procedure and that all points of view should be heard.

24. **Ms. Bruell-Melchior** (Monaco) said that she would vote against a separate vote. Delegations had already had ample opportunity to express their views on the draft resolution, which had been endorsed by 89 Member States. It was time to vote on the text as a whole.

25. **Mr. Margarian** (Armenia) said that his delegation aligned itself with the statement made by the representative of Monaco and noted that Member States had already taken action on seven written amendments and several oral amendments.

26. **The Chairman**, responding to a point of order raised by the representative of Malaysia, again recalled the provisions of rule 129 and urged delegations not to seek to slow down the proceedings.

27. *A recorded vote was taken on the proposal of the representative of Barbados for a separate vote on the first preambular paragraph of draft resolution A/C.3/63/L.19/Rev.1.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Cambodia, Djibouti, Equatorial Guinea, Fiji, Ghana, Guatemala, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Republic of Korea, Russian Federation,

Senegal, Sierra Leone, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

28. *The motion for division concerning the first preambular paragraph of draft resolution A/C.3/63/L.19/Rev.1 was rejected by 88 votes to 53, with 24 abstentions.*

29. **Ms. Cross** (United Kingdom) sought further confirmation as to whether a separate vote had been taken on the first preambular paragraph under rule 129 of the rules of procedure.

30. **Ms. Pi** (Uruguay) indicated that, had she had been present during the vote she would have voted against the motion for division submitted by the representative of Barbados.

31. **Ms. Chan** Yu Ping (Singapore) said that her delegation also wished to have a separate vote on paragraph 1 of the draft resolution, in accordance with rule 129 of the rules of procedure.

32. **Mr. Degia** (Barbados) emphasized that a distinction should be made between his request for a separate vote and the motion for division proposed by the representative of Singapore, which concerned paragraph 1 of the draft resolution.

33. **Mr. Ochoa** (Mexico), speaking on a point of order, said that the time had come for the Committee to take action on the draft resolution as a whole. The motion for division proposed by Singapore had indeed been submitted under rule 129 of the rules of procedure, as had the motion proposed by Barbados, which the Committee had just rejected.

34. **Mr. Llanos** (Chile), expressing support for the statement made by the representative of Mexico, added that the Committee could not go back on its decision not to vote separately on the proposed amendments to the draft resolution.

35. **Ms. Chan** Yu Ping (Singapore) reiterated that her motion for division had nothing to do with the request made by the representative of Barbados. The motion would allow the sponsors of the draft resolution to reconsider the amendment proposed by the delegation of Singapore during the informal consultations. Failure to vote on the motion would constitute a violation of rule 129 of the rules of procedure.

36. **Mr. Renié** (France) asked the Secretary of the Committee to clarify the vote taken in response to the motion for division proposed by the representative of Barbados.

37. **Mr. Khane** (Secretary of the Committee) explained that Mexico had objections to the motion for division proposed by the representative of Barbados concerning the first preambular paragraph of the draft resolution; the Committee had therefore held a vote on that motion, in accordance with rule 129 of the rules of procedure. As the motion for division proposed by the representative of Singapore concerned another part of the draft resolution, namely paragraph 1, the provisions of rule 129 should be implemented on an individual basis. The Committee must decide on the receivability of that motion if a delegation objected to it. However, it did not appear that either Mexico or Chile had raised such explicit objections.

38. **Mr. Llanos** (Chile) said that it was his understanding that the Committee had voted to reject separate votes on any proposed amendments to the draft resolution. He objected to the motion for division proposed by Singapore.

39. **Mr. González** (Costa Rica) said that rule 129 of the rules of procedure had been incorrectly interpreted; in order to vote on the motion for division proposed by Singapore, the Committee must first accept the principle of a separate vote. He therefore asked whether the next vote to be taken would be based on that principle, which the Committee had however just rejected, or on a separate vote in respect of paragraph 1 of the draft resolution.

40. **Mr. Saeed** (Sudan), speaking on a point of order, repeated the explanations provided by the Secretary of the Committee. He urged delegations to stop making general statements so that a vote could be taken on the motion for division proposed by Singapore, in accordance with rule 129 of the rules of procedure.

41. **Ms. Banks** (New Zealand), speaking on a point of order said that she would welcome further clarification. She was surprised that no mention had been made of rule 81 of the rules of procedure, according to which the Committee could not immediately take action on a proposal for a separate vote if that proposal had already been rejected.

42. **Mr. Khane** (Secretary of the Committee) said that the motion for division proposed by the representative of Singapore had been put to a vote because the representative of Chile had objected to it.

Rule 81 of the rules of procedure was not applicable because the requests made by Barbados and Singapore concerned two distinct parts of the draft resolution, namely the first preambular paragraph and paragraph 1.

43. **Mr. Saeed** (Sudan), speaking in favour of the motion for division proposed by Singapore, said that a number of delegations, including his own, had proposed constructive amendments. However, the sponsors of the draft resolution had systematically rejected those amendments. He therefore urged the countries concerned to reconsider their positions with respect to paragraph 1 of the draft resolution.

44. **Mr. Cabral** (Guinea-Bissau), speaking on a point of order, objected to the length of the statement made by the representative of Sudan, who should have limited himself to stating his position on the motion for division under consideration.

45. **Mr. Saeed** (Sudan) reiterated his support for the motion for division proposed by Singapore.

46. **Mr. Degia** (Barbados), speaking in favour of the motion for division proposed by the representative of Singapore, said that nothing should prevent delegations from justifying their positions. Confirming the information provided by the representative of Sudan, he stressed that the motion proposed by Singapore was perfectly legitimate: it would allow the Committee to take note of the opposition of a number of countries to the wording of paragraph 1, which was something that the sponsors of the draft resolution had failed to do.

47. **Ms. Bruell-Melchior** (Monaco), speaking against the motion for division proposed by the representative of Singapore, suggested that the Committee would save time by first deciding whether or not it would allow a separate vote on each paragraph.

48. **Mr. Vigny** (Switzerland), speaking against the motion for division proposed by the representative of Singapore and also as a sponsor of the draft resolution, invited delegations to vote against the motion.

49. *A recorded vote was taken on the motion for division proposed by the representative of Singapore concerning paragraph 1 of the draft resolution.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, Chad, China, Comoros, Cuba, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Djibouti, Equatorial Guinea, Fiji, Ghana, Guatemala, Guinea-Bissau, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Republic of Korea, Russian Federation, Senegal, Sierra Leone, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

50. *The motion for division concerning paragraph 1 of the draft resolution was rejected by 88 votes to 55, with 24 abstentions.*

51. **Mr. Suárez** (Colombia) speaking as a sponsor of the draft resolution as a whole, said that his delegation

would again vote in favour of the draft resolution because its text was consistent with the national and international legal instruments currently in force in Colombia and with the policies of his Government. His country had abolished the death penalty, which had limited success as a means of crime prevention and also seriously undermined the right to life, the right to freedom from cruel, inhuman or degrading treatment and the right to due process. He hoped that the adoption of the draft resolution would advance the multilateral dialogue aimed at a moratorium on the use of the death penalty, given that the protection of human rights and basic freedoms, through international cooperation, was a priority for the United Nations. The draft resolution intentionally focused on the implementation of General Assembly resolution 62/149, and not on substantive issues, so as to reduce any controversy. Colombia had voted against the motions for division in order to preserve the spirit of the draft resolution.

52. **Mr. Bahreyni** (Islamic Republic of Iran) said that States were sovereign in the area of justice and that the death penalty was a matter of criminal justice, not a human rights issue. International human rights law authorized capital punishment for the most serious crimes. Calls for its abolition in all countries constituted interference that ran counter to the principles enshrined in the Charter of the United Nations and denied the social, cultural and religious diversity of national legal systems. His delegation would therefore vote against the draft resolution.

53. **Mr. Rastam** (Malaysia) said that he was disappointed that the credibility of the Committee's work had once again been compromised by its decision to consider the issue of the death penalty. In the same way that Malaysia respected countries that had voluntarily abolished the death penalty or had decided to apply a moratorium on its use, such countries should respect the States that had retained it, which included Malaysia. Since there was no international consensus on the issue of the death penalty, no Member State had the right to impose on another country the principle of, or the modalities for its abolition. However, during the informal consultations on the draft resolution, its sponsors had abandoned the positive attitude usually adopted in that framework and had flatly rejected the amendments constructively proposed by a number of delegations seeking to reconcile the different points of view. While his delegation, among others, had hoped to engage in a dialogue, the sponsors of the draft resolution had taken a confrontational approach, which had led to an impasse. Reiterating the arguments put forward by the representative of the Islamic Republic of Iran, while also clarifying that Malaysia only applied the death penalty for the most serious crimes and that various avenues of recourse were available to persons sentenced to death, he indicated that his delegation would vote against the draft resolution.

54. **Ms. Booker** (Bahamas) recalled that the idea of a world government was not new; its proponents believed that the existence of a global supranational authority would help to solve all of the world's ills, while its detractors viewed such an idea as merely a utopian dream. Contrary to what had been implied by the sponsors of the draft resolution, the United Nations was not a world government with centralized executive, legislative and judicial powers but rather an international organization consisting of Member States, each with its own justice system. Furthermore, the universal abolition of the death penalty, in reality, was far from a panacea. Citing paragraph 31 of the report of the Secretary-General with regard to the implementation of General Assembly resolution 62/149 (A/63/293), she warned against the risk of violating the sovereignty of States and, endorsing the Malaysian delegation's description of the informal consultations, highlighted the bad faith shown by some sponsors of the draft resolution and rejected accusations that the aim of the earlier motions for division had been to delay the adoption of the draft resolution.

55. Furthermore, she could not accept the report of the Secretary-General, finding inconsistencies in the way that it classified whether countries were retentionist, de facto abolitionist or de jure abolitionist. Referring to paragraphs 7 and 12 of the report, she also criticized the lack of reliability and transparency of the figures and sources used. While she agreed that the death penalty was not prohibited in international law, she considered that capital punishment was a matter of criminal justice, not a human rights issue. Her delegation would vote against the draft resolution.

56. **Mr. Attiya** (Egypt) called attention to the fact that the draft resolution was selective in terms of both content and scope, which its sponsors appeared to have ignored. It addressed only one aspect of the right to life and remained silent on the question of abortion, for example. As his delegation had already suggested, the question of the death penalty could be considered by

the Human Rights Council as part of a comprehensive review of the right to life, provided that resources were made available to strengthen the role of that body. Moreover, by referring to a global trend towards the abolition of the death penalty, the sponsors of the draft resolution had failed to recognize the diversity of legal, social, economic and cultural conditions. None of them had the right to impose their views on a third party without taking account of that party's concerns. Nor should they seek to do so by manipulating international law. There was thus a need to reconcile the positions of States that had voluntarily abolished the death penalty, or had decided to apply a moratorium on executions, and those countries that continued to use it, within the framework of multilateral negotiations on the right to life in general. His delegation would vote against the draft resolution and it urged others to do the same.

57. **Ms. Kožar** (Croatia) said that she was gratified that the Committee, a majority of whose members were clearly in favour of the draft resolution, was in a position to take action on a version that had not been subject to substantive changes. As a sponsor, her delegation would vote in favour of the draft resolution and it called on other representatives to do the same.

58. **Mr. Saeed** (Sudan) said that the way in which the Committee had stumbled over the motions for division proposed by the representatives of Barbados and Singapore demonstrated the sensitive nature of the death penalty and reinforced the idea that those who wished to consider that question within the framework of human rights, without respecting the political, social and cultural sovereignty of Member States, were committing a grave mistake. A consensus was not possible since each State was responsible for deciding whether or not to abolish the death penalty and, while Sudan respected countries which, after national consultations, had voluntarily abolished the death penalty or had adopted a moratorium on its application, it was entitled to expect the same respect in return. Since the informal consultations on the draft resolution had been politicized by the sponsors of the draft resolution, who had refused to modify its wording to take into account the legal and judicial systems that existed in Sudan and in associated countries, his delegation would vote against the draft resolution.

59. **Mr.** Soe Lynnn **Han** (Myanmar), speaking in explanation of vote before the voting, said that any attempt by a country or group of countries to impose a legal system on others was contrary to Article 2 of the Charter of the United Nations. His delegation would therefore vote against the draft resolution.

60. **Mr. Talbot** (Guyana) expressed regret that the proposed amendment had not been supported by all delegations. There was no international consensus on the death penalty and the question of its maintenance came within the domestic jurisdiction of each State. Even though the death penalty had not been applied in Guyana for many years, his country could not accept a draft resolution that clearly represented an attempt at interference and ran counter to the Guyanese people's wish to maintain the death penalty. His delegation would therefore vote against it.

61. **Mr. Degia** (Barbados) said that, since gaining independence, Barbados had constantly worked to improve the lot of its people, ensuring their right to free education and health care and to gender equality, and had acceded to the main human rights conventions. It possessed an independent judicial system which offered every guarantee of due process. Even though there had been no capital punishment in Barbados for almost a quarter of a century, the death penalty was provided for in the country's legislation. The British Privy Council itself, before its replacement by the Caribbean Court of Justice as the supreme court of appeal, had recognized that the inclusion of the death penalty in the legislation of Barbados was lawful and in accordance with its Constitution. The death penalty was not prohibited by international law, the International Covenant on Civil and Political Rights or the Universal Declaration of Human Rights, and it came within the domestic jurisdiction of States. His delegation would therefore vote against the draft resolution.

62. *Ms. Seanedzu (Ghana), Vice-Chairman, took the Chair.*

63. **Mr. Punkrasin** (Thailand) said that, in accordance with Article 2, paragraph 7, of the Charter of the United Nations, the decision on whether or not to declare a moratorium on the use of the death penalty was a sovereign decision of each State. His delegation requested that Thailand's right to maintain the death penalty should be respected; in the eyes of its people, it was a deterrent against the most serious crimes. Moreover, under the law of Thailand, persons sentenced to death had the right to appeal to the Supreme Court and to request a pardon or a commutation of sentence. The death penalty was in any

case applied only for the most serious crimes; the most recent execution dated back to 2003. In addition, following an amendment to the Thai Criminal Code, no person under the age of 18 could be sentenced to death. His delegation would therefore vote against the draft resolution.

64. *Mr. Majoor (Netherlands) resumed the Chair.*

65. **Mr. Al-Shami** (Yemen) recalled that there was no international consensus regarding the death penalty: every State had the right to choose its economic, social, cultural and legal system without outside interference and capital punishment was not prohibited by international law. It was inadmissible that countries that had abolished the death penalty should seek to impose their views. The draft resolution was one-sided and had been only superficially amended. His delegation would therefore vote against it.

66. **Mr. Aisi** (Papua New Guinea) said that treason and very serious crimes carried the death penalty in his country. In 33 years of independence, the death sentence had been imposed in only a handful of cases and, each time, it had been commuted to life imprisonment by the Supreme Court. Papua New Guinea was not, however, in favour of a moratorium on the death penalty and had no intention of abolishing it. Implementation of the draft resolution would encroach on the jurisdiction of the Supreme Court and jeopardize the operation of an independent judicial system. Moreover, according to the Constitution, a pardon could be granted in certain cases by a board composed of representatives of the judiciary as a whole, and Parliament had the authority to amend the law. His delegation would therefore vote against the draft resolution.

67. **Mr. Malhotra** (India) said that each State had the right to determine its own legal system and that capital punishment was not prohibited by the International Covenant on Civil and Political Rights. In India, it was imposed only in exceptional cases, when the crime committed was so heinous as to shock the conscience of society. The right to due process was guaranteed by law. Death sentences handed down could not be applied to pregnant women; juvenile offenders could not be sentenced to death under any circumstance. Any death sentence must be confirmed by a superior court and the accused had a right of appeal to the High Court, or to the Supreme Court, and was entitled to file a mercy petition before the governor of the State concerned or the President. His delegation would vote against the draft resolution, which went against Indian legislation.

68. **Mr. Akindele** (Nigeria) said that Nigeria's legislation provided for the death penalty because of its very belief in the sanctity of human life. The current administration practised the rule of law, in a spirit of openness and transparency, and resorted to capital punishment only in exceptional cases. His delegation considered that each State had the sovereign right to choose its political and legal system without outside interference. Convinced that the death penalty was an effective deterrent for both would-be and hardened criminals, it would vote against the draft resolution.

69. **Mr. Gonsalves** (Saint Vincent and the Grenadines) said that the Constitution of his country, which provided for capital punishment but also offered all the guarantees of due process, had been bequeathed by the former colonial power, Great Britain. Maintained in accordance with the wishes of the majority of the population, the death penalty was only applied, however, for the most serious crimes. The draft resolution ran counter to the wishes of the population of Saint Vincent and the Grenadines, was contrary to the spirit of the Charter of the United Nations and breached the sovereign right of States to choose their own legal system. His delegation had particular doubts as to the usefulness and validity of the draft resolution, given that the world was moving under its own momentum towards the abolition of the death penalty. Furthermore, despite the abhorrent nature of many practices prescribed and tolerated in some countries, Saint Vincent and the Grenadines would not presume to interfere in those countries' domestic affairs or to question their motives. His delegation would therefore vote against the draft resolution.

70. **Ms. Halabi** (Syrian Arab Republic) said that the sovereign right of States to manage their domestic affairs freely, as enshrined in the Charter of the United Nations, was based on mutual respect and the principle of non-interference. Her delegation would therefore vote against the draft resolution, which infringed upon that right.

71. A recorded vote was taken on draft resolution A/C.3/63/L.19/Rev.1 as a whole.

In favour:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of).

Against:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Chad, China, Comoros, Democratic People's Republic of Korea, Dominica, Egypt, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United States of America, Yemen, Zimbabwe.

Abstaining:

Bahrain, Belarus, Bhutan, Cameroon, Central African Republic, Cuba, Equatorial Guinea, Eritrea, Fiji, Ghana, Guinea, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Oman, Republic of Korea, Senegal, Sierra Leone, Suriname, Togo, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zambia.

72. *Draft resolution A/C.3/63/L.19/Rev.1 was adopted by 105 votes to 48, with 31 abstentions.*

73. **Ms. Phipps** (United States of America) said she recognized that the countries supporting the draft resolution had a principled position on the death penalty. However, her delegation urged them to lay greater emphasis, in any future draft resolution dealing with the death penalty, on real violations of human rights. The death penalty was not prohibited by international law and its application was authorized by the International Covenant on Civil and Political Rights. The United States therefore called on all States that maintained the death penalty to respect their international human rights obligations by ensuring that the death penalty was not applied in an extrajudicial, summary or arbitrary manner.

74. **Mr. Bouchaara** (Morocco) said that his delegation had abstained from voting because, notwithstanding the very serious crimes and acts of terrorism perpetrated against innocents and minors, there had been a de facto moratorium on the death penalty in Morocco since 1994 as part of the reforms sought by the King for the protection of human rights and the strengthening of fundamental freedoms. His Government had made institutional and judicial adjustments to refine the procedure for applying capital punishment, while remaining attentive to the Moroccan population in all its diversity in order to form a better idea of the various religious, legal, sociological and humanistic dimensions of the question.

75. **Ms. Chan** Yu Ping (Singapore) said that she regretted the adoption of a draft resolution that had been opposed by many countries and served merely to highlight the lack of international consensus on the question. Singapore rejected the idea that a State or group of States could interfere in a country's domestic affairs in order to impose its point of view. Sixty years earlier, when the Universal Declaration of Human Rights had been proclaimed, the question of the death penalty had not been a human rights issue. The only thing that had changed since then was the insistence of some countries on imposing their values, in violation of the principles of sovereignty, diversity and tolerance. Because of the hypocrisy and partisan spirit

that had marred the discussions, the Committee had over the years turned into a forum for recriminations, double standards, political games and sermonizing, rather than a place for dialogue and the pursuit of common goals. Those who today preached so loudly in favour of human rights seemed to have forgotten that true respect for human rights meant respecting differences and that no one held a monopoly on the truth.

76. **Ms. Nawad** (Lebanon) said that, according to the Lebanese Penal Code, the death penalty was applied only exceptionally, for the most serious crimes. Recognizing the desire of the sponsors of the draft resolution to strengthen respect for human rights, her delegation had put forward several proposals aimed at reconciling the various points of view on the question of the death penalty. Lebanon was anxious to promote a constructive dialogue that would culminate in the universal abolition of the death penalty. A serious debate on the death penalty was soon to start up in the country. The Ministry of Justice was currently preparing a draft law on the abolition of the death penalty. For all those reasons, her delegation had abstained from voting on the draft resolution.

77. **Mr. Attiya** (Egypt) said that his country had voted against draft resolution A/C.3/63/L.19/Rev.1. It was the responsibility of States maintaining the death penalty to ensure that capital punishment could be imposed for the most serious crimes only pursuant to a final judgement, rendered by a competent court, with the strict application of due process of law. His delegation also believed that international efforts should focus on guaranteeing that States did more to ensure that no one was arbitrarily deprived of life.

78. Egypt was firmly convinced that the draft resolution sought not only to reinterpret the provisions of the International Covenant on Civil and Political Rights, but also to impose new interpretations and narrow viewpoints on States. Moreover, it addressed only one aspect of the right to life.

79. The draft resolution also failed to take into account the fact that a negotiated instrument could be amended only through the process by which it had been adopted and not by means of a General Assembly resolution. Attempts to ignore such a well-established principle would create an unwelcome precedent, which would be detrimental to the international community's efforts to promote universal respect for international human rights law. For Egypt, those differences could be resolved only through a comprehensive and multilateral debate on the question of the right to life.

80. **Mr. Christian** (Ghana) said that his delegation had abstained from the vote. He noted that the 1992 Constitution of Ghana expressly stated that no one could be intentionally deprived of life, except in the case of the sentence of a court in respect of a criminal offence which had resulted in a conviction under domestic law. The death penalty was still provided for under the Penal Code for the most serious crimes and violations and it also served as a deterrent. However, the death penalty had not been applied in Ghana for the past 20 years, since different heads of State had exercised their prerogative to pardon persons sentenced to death by superior courts. The Government of Ghana respected the rule of law, adhered to human rights principles and upheld the tenets of the international human rights instruments to which Ghana was a party.

81. **Ms. Kurosaki** (Japan) said that her delegation had voted against the draft resolution. The question of whether to abolish the death penalty or to establish a moratorium on executions should be decided only after every country had considered the matter carefully, taking into account public opinion and its own criminal justice policy. In Japan, opinion polls had consistently shown that the majority of the public believed that the most dangerous criminals should receive the death sentence. Unfortunately, serious crimes such as mass murder continued to be committed. Furthermore, there was no international consensus on the abolition of the death penalty.

82. **Mr. Islam** (Bangladesh) said that his country's criminal justice system imposed the death penalty only for the most brutal and heinous crimes, and subject to provisions designed to avoid any miscarriages of justice. Extreme caution was exercised throughout every aspect of that transparent process. Redress was available at all stages and presidential clemency could be granted. Bangladesh believed that a moratorium which ultimately sought to abolish the death penalty would require a comprehensive appraisal of the criminal justice system worldwide. In the meantime, Bangladesh had been obliged to vote against the draft resolution.

83. **Ms. Hoang Thi Thanh Nga** (Viet Nam) said that her delegation had abstained because it believed that States had the primary responsibility for guaranteeing

that their citizens enjoyed a peaceful life and because each country had the right to adopt the legal measures most appropriate to its level of development. The death penalty was a legal question and should not be included as an agenda item under the protection of human rights. While respecting the decision of countries that had abolished the death penalty or had established a moratorium on its use, Viet Nam continued to use the death penalty as a last resort to protect the right to life of the overwhelming majority of its population. Under the Penal Code of Viet Nam, capital punishment was not applicable to juveniles, pregnant women or mothers with children under 36 months of age. Viet Nam was pursuing a policy to gradually narrow the scope of application of the death penalty with a view to its abolition.

84. **Mr. Dorji** (Bhutan) said that his country did not use the death penalty and encouraged all countries to abolish it, while recognizing the right of all countries to determine their own criminal justice system. It was on the basis of that principled position that his delegation had voted on the draft resolution and its amendments.

85. **Ms. Zhang** Dan (China) said that her delegation had voted against the draft resolution and reaffirmed that the General Assembly was not the forum best suited to deal with the question of the death penalty. Article 2, paragraph 7, of the Charter of the United Nations clearly established that nothing contained in the Charter authorized the United Nations to intervene in matters which were essentially within the domestic jurisdiction of any State. The consideration and adoption by the General Assembly of draft resolution A/C.3/63/L.19/Rev.1 ran counter to that principle. Moreover, international law did not prohibit the death penalty and article 6 of the International Covenant on Civil and Political Rights stipulated that the death penalty could be imposed for the most serious crimes. All countries, in view of their legal systems, their level of economic development and their histories and cultures, had a right to determine the sentences to be imposed and the validity of a moratorium on the use of the death penalty. Chinese legislation provided for the death penalty only for the most serious crimes and had established a number of safeguards. The death penalty did not apply to minors and the Supreme Court made the final decision as to whether it should or should not be applied

86. **Ms. AlShahail** (Saudi Arabia), speaking also on behalf of Kuwait and Qatar, said that States were free to use the death penalty and that the current debate constituted interference in their internal affairs and was contrary to the Charter of the United Nations. Her delegation had therefore voted against the draft resolution.

87. **Ms. Mndebele** (Swaziland) said that she had voted against the draft resolution because her country believed that it violated the inalienable right of every sovereign State to have the political, economic, social, legal and cultural system of its choice, without any interference from another State. The Constitution of the Kingdom of Swaziland clearly established that no one could be intentionally deprived of his or her right to life, except in execution of the sentence of a court in respect of a criminal offence under the law of which that person had been convicted. Swaziland therefore considered that the death penalty was a criminal justice issue. Its Constitution had been promulgated after widespread consultation of the population and all decisions regarding the death penalty should reflect the will of the people.

88. **Mr. Babadoudou** (Benin) said that his country was one of those that had worked over the past 20 years towards the abolition of the death penalty or for a moratorium on its use. Benin had implemented a de facto moratorium, which had led it to vote as it had, while bearing in mind the principles of the Charter of the United Nations and of international law.

89. The question of the death penalty should be considered at the regional and subregional levels in order to take into account transnational crime. Some of the proposed amendments would have helped to balance the text of the draft resolution, if they had not been rejected. Unfortunately, everybody had stuck doggedly to their positions. In view of the lack of tolerance, Benin called on the sponsors of the draft resolution, and on those countries that had voted against it, to show greater open-mindedness in the future.

90. **Mr. Gaumakwe** (Botswana) said that he was once again very disappointed that the draft resolution had been adopted and that its sponsors still refused to acknowledge that a moratorium on executions or the abolition of the death penalty would not contribute to the promotion or protection of human rights. He was also disappointed by the rejection of the amendments

which had been submitted in an attempt to balance the text and to reduce its hostile character.

91. Botswana would continue to vote against the draft resolution for as long as its sponsors failed to take account of the fact that, for many countries, the death penalty was a criminal justice issue and its use for the most serious crimes was the sovereign right of States. Those countries that continued to misuse the General Assembly in order to impose their values on other nations should desist from such actions.

92. Botswana was proud of its record of over four decades of uninterrupted democracy, good governance and respect for the rule of law and the fundamental rights and freedoms of individuals, as guaranteed by the Constitution.

93. It respected the decision of countries that had decided to introduce a moratorium on executions but was troubled that they were less inclined to respect the choice of those who were in favour of maintaining a legal system that included capital punishment for the perpetrators of serious crimes. Unlike extrajudicial executions and the systematic massacre of civilians in various areas of conflict around the world, the death penalty was not prohibited by international law.

94. His delegation remained open to continued discussion of the issue on the basis of mutual respect and understanding and in accordance with international law. However, it would not accept being told what it should or should not do.

95. **Ms. K. A. Hassan** (Djibouti) said that she wished to place on record that, if her delegation had been present during the vote, it would have abstained.

96. **Ms. Šurková** (Slovakia) said that her delegation would have voted against the motion for division proposed by Singapore.

The meeting rose at 1 p.m.